

P. PAINE (Thomas) 160
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THE WHOLE
PROCEEDINGS

ON THE
T R I A L
OF
AN INFORMATION

Exhibited *ex Officio* by the KING'S ATTORNEY-GENERAL

AGAINST

T H O M A S P A I N E

For a LIBEL upon the REVOLUTION and SETTLEMENT
of the CROWN and REGAL GOVERNMENT as by Law
established; and also upon the BILL of RIGHTS, the LE-
GISLATURE, GOVERNMENT, LAWS, and PARLIA-
MENT of this KINGDOM, and upon the KING.

Tried by a Special Jury in the *Court of King's Bench*, GUILD-
HALL, on *Tuesday*, the 18th of *December*, 1792.

BEFORE THE

RIGHT HONOURABLE LORD KENYON.

Taken in Short-Hand

By JOSEPH GURNEY.

DUBLIN:

PRINTED FOR E. LYNCH, G. BURNET, P. WOGAN, P. BYRNE,
J. MOORE, W. JONES, J. JONES, J. MILLIKEN, J. RICE,
AND H. WAITS.

1793.

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I N F O R M A T I O N .

Of Easter Term, in the 32d Year of King George the Third.

London, } **B**E it remembered, that Sir Archibald Macdonald, Knight, Attorney General of our present Sovereign Lord King George the Third, who for our present Sovereign Lord the King, prosecutes in this behalf in his own proper person, comes into the court of our said present Sovereign Lord the King, before the King himself at Westminster, in the county of Middlesex, on Friday next, after one month from the feast day of Easter in this same term; and for our said Lord the King giveth the court heré to understand and be informed, that THOMAS PAINE, late of London, gentleman, being a wicked, malicious, seditious, and ill-disposed person, and being greatly disaffected to our said Sovereign Lord the now King, and to the happy constitution and government of this kingdom, and most unlawfully, wickedly, seditiously, and maliciously devising, contriving, and intending to scandalize, traduce, and vilify, the late happy Revolution, providentially brought about and effected under the wise and prudent conduct of his Highness William, heretofore Prince of Orange, and afterwards King of England, France, and Ireland, and the dominions thereunto belonging; and the acceptance of the Crown and royal dignity of King and Queen of England, France, and Ireland, and the dominions thereunto belonging, by his said Highness William, and her Highness Mary, heretofore Prince and Princess of Orange; and the means by which the same Revolution was accomplished to the happiness and welfare of this realm; and to scandalize, traduce, and vilify the convention of the Lords Spiritual and Temporal, and Commons, at whose request, and by whose advice, their said Majesties did accept the said crown and royal dignity; and to scandalize, traduce, and vilify, the act of the Parliament holden at Westminster in the first year of the reign of their said Majesties, King William and Queen Mary, intituled, “an act, declaring the rights and liberties of the subject,

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“and

“ and settling the succession of the crown,” and the declaration of rights and liberties in the said act contained ; and also the limitations and settlements of the crown and regal government of the said kingdoms and dominions as by law established ; and also by most wicked, cunning, and artful insinuations to represent, suggest, and cause it to be believed, that the said Revolution, and the said settlements and limitations of the crown and regal government of the said kingdoms and dominions, and the said declaration of the rights and liberties of the subject, were contrary to the rights and interest of the subjects of this kingdom in general ; and that the hereditary regal government of this kingdom was a tyranny : And also by most wicked, cunning, and artful insinuations, to represent, suggest, and cause it to be believed, that the Parliament of this kingdom was a wicked, corrupt, useless, and unnecessary establishment ; and that the King and the Lords Spiritual and Temporal, and Commons, in Parliament assembled, wickedly tyrannized over and oppressed the subjects of this kingdom in general, and to infuse into the minds of the subjects of this kingdom groundless and unreasonable discontents and prejudices against our present Sovereign Lord the King and the Parliament of this kingdom, and the constitution, laws, and government thereof ; and to bring them into hatred and contempt, on the sixteenth day of February, in the thirty-second year of the reign of our said present Sovereign Lord the King, with force and arms at London aforesaid, to wit, in the parish of Saint Mary le Bow, in the Ward of Cheap, he, the said Thomas, wickedly, maliciously, and seditiously, did write and publish, and cause to be written and published, a certain false, scandalous, malicious, and seditious libel, of and concerning the said late happy Revolution, and the said settlements and limitations of the crown and regal government of the said kingdoms and dominions ; and the said act, declaring the rights and liberties of the subject ; and the said declaration of the rights and liberties of the subject therein contained, and the hereditary regal government of the said kingdoms and dominions ; and also of and concerning the Legislature, Constitution, Government, and Laws, of this kingdom ; of and concerning our present Sovereign Lord the King that now is ; and of and concerning the Parliament of this kingdom, intituled, “ Rights of Man, Part “ the Second, Combining principle and practice, by Thomas Paine, Secretary for Foreign Affairs to Congress, in “ the



" the American War, and Author of the Work, entitled
 " Common Sense, and the First Part of the Rights of Man,
 " the Second Edition, London, printed for J. S. Jordan,
 " No. 166, Fleet Street, 1792;" in which said libel are
 contained, amongst other things, divers false, scandalous,
 malicious, and seditious, matters. In one part thereof, ac-
 cording to the tenor and effect following, that is to say,
 " All hereditary government is in its nature tyranny. 'An
 " heritable crown" (meaning, amongst others, the crown
 of this kingdom) "or an heritable throne," (meaning, a-
 mongst others, the throne of this kingdom) "or by what
 " other fanciful name such things may be called, have no
 " other significant explanation than that mankind are herita-
 " ble property. To inherit a government, is to inherit the
 " people, as if they were flocks and herds." And in ano-
 ther part thereof, according to the tenor and effect following,
 (that is to say) " This Convention met at Philadelphia, in
 " May, 1787, of which General Washington was elected
 " president. He was not at that time connected with any
 " of the State Governments, or with Congress. He deli-
 " vered up his commission when the war ended, and since
 " then had lived a private citizen. The Convention went
 " deeply into all the subjects, and having, after a variety of
 " debate and investigation, agreed among themselves upon
 " the several parts of a Federal Constitution, the next ques-
 " tion was the manner of giving it authority and practice.
 " For this purpose, they did not, like a cabal of courtiers,
 " send for a Dutch Stadtholder or a German Elector, but
 " they referred the whole matter to the sense and interest of
 " the country," (thereby meaning and intending that it
 should be believed that a cabal of courtiers had sent for the
 said Prince of Orange and King George the First, heretofore
 Elector of Hanover, to take upon themselves respectively
 the regal government of the said kingdom and dominions,
 without referring to the sense and interest of the subjects of
 the said kingdoms.) And in another part thereof, accord-
 ing to the tenor and effect following, that is to say, " The
 " history of the Edwards and the Henries," (meaning Ed-
 wards and Henries, heretofore Kings of England) "and up
 " to the commencement of the Stuarts," (meaning Stuarts,
 heretofore Kings of England) "exhibits as many instances
 " of tyranny as could be acted within the limits to which the
 " nation had restricted it. The Stuarts" (meaning Stuarts,
 heretofore Kings of England) "endeavoured to pass these
 " limits,

"limits, and their fate is well known. In all those instances,
 "we see nothing of a constitution, but only of restrictions
 "on assumed power. After this, another William," (mean-
 ing the said William Prince of Orange, afterwards King of
 England) "descended from the same stock, and claiming
 "from the same origin, gained possession" (meaning pos-
 session of the crown of England) "and of the two evils,
 "*James and William*," (meaning James the Second, here-
 tofore King of England, and the said William Prince of
 Orange, afterwards King of England) "the nation prefer-
 "red what it thought the least; since from circumstances it
 "must take one. The act called the Bill of Rights" (mean-
 ing the said act of Parliament intituled, "an act declaring
 the rights and liberties of the subject, and settling the succe-
 sion of the crown) "comes here into view; what is it"
 (meaning the said act of Parliament last mentioned) "but a
 "bargain which the parts of the government made with each
 "other to divide powers, profits and privileges? (meaning
 that the said last-mentioned act of Parliament was a bargain
 which the parts of the government in England made with
 each other to divide powers, profits, and privileges. "You
 "shall have so much, and I will have the rest; and with re-
 "spect to the nation it said, *for your share YOU shall have the*
 "*right of petitioning*. This being the case, the Bill of
 "Rights" (meaning the said last-mentioned act of Parlia-
 ment:) "is more properly a Bill of Wrongs and of insult;
 "as to what is called the Convention Parliament, it" (mean-
 ing the said Convention of Lords Spiritual and Temporal,
 and Commons herein before mentioned) "was a thing that
 "made itself, and then made the authority by which it acted.
 "A few persons got together, and called themselves by that
 "name; several of them had never been elected, and none of
 "them for the purpose. From the time of William,"
 (meaning the said King William the Third) "a species of
 "government arose, issuing out of this coalition Bill of
 "Rights; (meaning the said act, intituled, "an act, de-
 claring the rights and liberties of the subject, and settling
 the succession of the crown) "and more so since the cor-
 "ruption introduced at the Hanover succession" (meaning
 the succession of the Heirs of the Princess Sophia, Electress
 and Dowager of Hanover to the crown and dignity of this
 kingdom) "by the agency of Walpole, that" (meaning the
 said species of government) "can be described by no other
 "name than a despotic legislation. Though the parts may
 "embarrass

"embarrass each other, the whole has no bounds; and the
 "only right it acknowledges out of itself is the right of pe-
 "titioning. Where then is the constitution either that gives
 "or that restrains power? It is not because a part of the
 "government" (meaning the government of this king-
 "dom) "is elective, that makes it less a despotism, if
 "the persons so elected possess afterwards, as a par-
 "liament, unlimited powers; election in this case
 "becomes separated from representation, and the candidates
 "are candidates for despotism. And in another part thereof,
 according to the tenor and effect following, (that is to say)
 "The attention of the government of England (for I ra-
 "ther chuse to call it by this name than the English govern-
 "ment) appears, since its political connection with Germa-
 "ny, to have been so completely engrossed and absorbed by
 "foreign affairs, and the means of raising taxes, that it
 "seems to exist for no other purposes. Domestic concerns
 "are neglected; and with respect to regular laws, there is
 "scarcely such a thing;" And in another part thereof, ac-
 cording to the tenor and effect following, (that is to say)
 "With respect to the two houses of which the English Par-
 "liament" (meaning the Parliament of this kingdom) "is
 "composed, they appear to be effectually influenced into
 "one, and, as a Legislature, to have no temper of its own.
 "The minister," (meaning the minister employed by the
 King of this realm in the administration of the government
 thereof) "whoever he at any time may be, "touches it"
 meaning the two Houses of Parliament of this kingdom)
 "as with an opium wand; and it" (meaning the two Houses
 of Parliament of this kingdom) "sleeps obedience. But
 "if we look at the distinct abilities of the two Houses
 " (meaning the two Houses of Parliament of this kingdom)
 "the difference will appear so great, as to shew the incon-
 "sistency of placing power where there can be no certainty
 "of the judgment to use it. Wretched as the state of re-
 "presentation is in England," (meaning the state of repre-
 sentation of the Commons of this kingdom) "it is manhood
 "compared with what is called the House of Lords;"
 (meaning the Lords Spiritual and Temporal in Parliament
 assembled) "and so little is this nicked-named House" (mean-
 ing the House of Lords) "regarded, that the people scarce-
 "ly inquire at any time what it is doing. It" (meaning the
 said House of Lords) "appears also to be most under influ-
 ence, and the furthest removed from the general interest of
 "the nation." And in another part thereof, according to
 the

the tenor and effect following, viz. "Having thus glanced
 "at some of the defects of the two Houses of Parliament,"
 (meaning the Parliament of this kingdom) "I proceed to
 "what is called the crown," (meaning the crown of this
 kingdom) "upon which I shall be very concise. It" (mean-
 ing the crown of this kingdom) "signifies a nominal office
 "of a million sterling a year, the business of which consists
 "in receiving the money, whether the person" (meaning
 the King of this realm) "be wise or foolish, sane or insane,
 "a native or a foreigner, matters not, every ministry"
 (meaning the ministry employed by the King of this realm
 in the administration of the government thereof) "acts up-
 "on the same idea that Mr. Burke writes, namely, that the
 "people" (meaning the subjects of this kingdom) "must
 "be hoodwinked and held in superstitious ignorance by some
 "bugbear or other; and what is called the crown" (mean-
 ing the crown of this kingdom) "answers this purpose, and
 "therefore it answers all the purposes to be expected from
 "it. This is more than can be said of the other two
 "branches. The hazard to which this office" (meaning a-
 mongst others the office of King of this realm) "is expos-
 "ed in all countries," (meaning amongst others this king-
 dom) "is not from any thing that can happen to the man,"
 (meaning the King) "but from what may happen to the na-
 "tion," (meaning amongst others this kingdom) "the dan-
 "ger of its coming to its senses." And in another part
 thereof, according to the tenor and effect following, (that is
 to say) "I happened to be in England at the celebration of
 "the centenary of the revolution of 1688. The charac-
 "ters of William and Mary" (meaning the said late King
 William and Queen Mary) "have always appeared to me
 "detestable; the one" (meaning the said King William)
 "seeking to destroy his uncle, and the other" (meaning the
 said Queen Mary) "her father, to get possession of power
 "themselves; yet as the nation was disposed to think some-
 "thing of that event, I felt hurt at seeing it ascribe the whole
 "reputation of it to a man" (meaning the said late King
 William the Third) "who had undertaken it as a jobb,
 "and who, besides what he otherwise got, charged six hun-
 "dred thousand pounds for the expence of the little fleet
 "that brought him from Holland. George the First"
 (meaning George the First, late King of Great Britain, &c.)
 "acted the same close-fisted part as William the Third had
 "done, and bought the Dutchy of Bremin with the money
 "he

“ he got from England, two hundred and fifty thousand
 “ pounds over and above his pay as King; and having thus
 “ purchased it at the expence of England, added it to his
 “ Hanoverian Dominions for his own private profit.—In
 “ fact, every nation that does not govern itself is govern-
 “ ed as a jobb: England has been the prey of jobbs ever
 “ since the revolution.” And in another part thereof, ac-
 “ cording to the tenor and effect following, (that is to say)—
 “ The fraud, hypocrisy, and imposition of governments,”
 (meaning amongst others, the government of this kingdom)
 “ are now beginning to be too well understood to promise
 “ them any longer career. The farce of monarchy and
 “ aristocracy in all countries is following that of chivalry,
 “ and Mr. Burke is dressing for the funeral. Let it then
 “ pass quietly to the tomb of all other follies, and
 “ the mourners be comforted. The time is not very
 “ distant when England will laugh at itself for sending to
 “ Holland, Hanover, Zell, or Brunswick, for men,”
 (meaning the Kings of these realms, born out of the same,
 who have acceded to the crown thereof at and since the revo-
 lution) “ at the expence of a million a year, who under-
 “ stood neither her laws, her language, nor her interest;
 “ and whose capacities would scarcely have fitted them for
 “ the office of a parish constable. If Government could
 “ be trusted to such hands, it must be some easy and simple
 “ thing indeed; and materials fit for all the purposes may be
 “ found in every town and village in England.” In con-
 tempt of our Lord the King and his laws, to the evil exam-
 ple of all others in the like case offending, and against the
 peace of our said Lord the King, his crown and dignity.—
 And the said attorney general of our said Lord the King,
 further gives the court here to understand and be informed,
 that the said Thomas Paine, being a wicked, malicious, se-
 ditious, and ill-disposed person, and being greatly disaffected
 to our said Sovereign Lord the now King, and to the happy
 constitution and government of this kingdom, and most un-
 lawfully, wickedly, seditiously, and maliciously devising,
 contriving, and intending to scandalize, traduce, and vilify
 the late happy revolution, providentially brought about and
 effected under the wise and prudent conduct of his Highness
 William, heretofore Prince of Orange, and afterwards King
 of England, France, and Ireland, and Dominions there-
 unto belonging; and the acceptance of the Crown and
 Royal Dignity of King and Queen of England, France, and
 Ireland,

Ireland, and the Dominions thereunto belonging, by his said Highness William, and her Highness Mary, heretofore Prince and Princess of Orange, and the means by which the same revolution was accomplished, to the happiness and welfare of this realm; and to scandalize, traduce, and vilify the convention of the Lords Spiritual and Temporal, and Commons, at whose request, and by whose advice, their said Majesties did accept the said Crown and Royal Dignity; and to scandalize, traduce, and vilify the act of the Parliament holden at Westminster, in the first year of the reign of their said Majesties, King William and Queen Mary, intituled, "an act, declaring the rights and liberties of the subject, and settling the succession of the crown," and the declaration of rights and liberties in the said act contained; and also the limitations and settlements of the crown and regal government of the said kingdoms and dominions, as by law established, and also by most wicked, cunning, and artful insinuations, to represent, suggest, and cause it to be believed, that the said revolution, and the said settlements and limitations of the crown and regal government of the said kingdoms and dominions, and the said declaration of the rights and liberties of the subject, were contrary to the rights and interest of the subjects of this kingdom in general; and that the regal government of this kingdom was a tyranny; and also by most wicked, cunning, and artful insinuations, to represent, and cause it to be believed, that the Parliament of this kingdom was a wicked, corrupt, useles, and unnecessary establishment; and that the King and Lords Spiritual and Temporal, and Commons, in Parliament assembled, wickedly tyrannized over and oppressed the subjects of this kingdom in general; and to infuse into the minds of the subjects of this kingdom groundless and unreasonable discontents and prejudices against our present Sovereign Lord the King, and the Parliament of this kingdom; and the constitution, laws, and government thereof, and to bring them into hatred and contempt, on the sixteenth day of February, in the thirty-second year of the reign of our said present Sovereign Lord the King, with force and arms at London aforesaid, to wit, in the parish of Saint Mary le Bow, in the ward of Cheap, he, the said Thomas, wickedly, maliciously, and seditiously did print and publish, and cause to be printed and published, a certain false, scandalous, malicious, and seditious libel, of and concerning the said late happy revolution, and the said settlements and limitations of the

the crown and regal government of the said kingdoms and dominions; and the said act declaring the rights and liberties of the subject, and the said declaration of the rights and liberties of the subject therein contained, and the hereditary Regal government of the said kingdoms and dominions, and also of and concerning the Legislature, Constitution, Government, and Laws of this Kingdom, and of and concerning our present Sovereign Lord the King that now is, and of and concerning the Parliament of this kingdom, intituled, "Rights of Man, part the second, combining principle and practice, by Thomas Paine, secretary for foreign affairs to Congress in the American War, and author of the work, entitled Common Sense, and the first part of Rights of Man, the Second Edition, London, Printed for J. S. Jordan, No. 166, Fleet Street." In which said libel are contained, amongst other things, divers false, scandalous, malicious, and seditious matters. In one part thereof, according to the tenor and effect following, (that is to say) "All hereditary government is in its nature tyrannical. An heritable crown" (meaning, amongst others, the crown of this kingdom) "or an heritable throne," (meaning amongst others, the throne of this kingdom) "or by what other fanciful name such things may be called, have no other significant explanation than that mankind are heritable property. To inherit a government is to inherit the people, as if they were flocks and herds."— And in another part thereof, according to the tenor and effect following, (that is to say) "This Convention met at Philadelphia in May, 1787, of which General Washington was elected president. He was not at that time connected with any of the state governments, or with Congress; he delivered up his commission when the war ended, and since then had lived a private citizen. The Convention went deeply into all the subjects, and having, after a variety of debate and investigation, agreed amongst themselves upon the several parts of a Federal Constitution, the next question was the manner of giving it authority and practice. For this purpose they did not, like a cabal of courtiers, send for a Dutch Stadtholder or a German Elector; but they referred the whole matter to the sense and interest of the country." (thereby meaning and intending that it should be believed that a cabal of courtiers had sent for the said Prince of Orange and King George

the First, heretofore Elector of Hanover, to take upon themselves respectively the regal government of the said kingdoms and dominions, without referring to the sense and interest of the subjects of the said kingdoms) And in another part thereof, according to the tenor and effect following, (that is to say) "The history of the Edwards and Henries," (meaning Edwards and Henries, heretofore Kings of England) "and "up to the commencement of the Stuarts," (meaning Stuarts, heretofore Kings of England) "exhibits as many instances of tyranny as could be acted within the limits to "which the nation had restricted it. The Stuarts") meaning Stuarts, heretofore Kings of England) "endeavoured "to pass those limits, and their fate is well known. In all "those instances, we see nothing of a constitution, but "only of restrictions on assumed power. After this, another William," (meaning the said William Prince of Orange, afterwards King of England) "descended from "the same origin, gained possession;" (meaning possession of the crown of England) "and of the two evils, James "and William," (meaning James the Second, heretofore King of England; and the said William Prince of Orange, afterwards King of England) "the nation preferred what "it thought the least; since from circumstances it must take "one. The act, called the Bill of Rights," (meaning the said act of Parliament, intituled, "an act declaring the "rights and liberties of the subject, and settling the succession of the crown") "comes here into view. What "is it" (meaning the said act of Parliament last mentioned) "but a bargain which the parts of the government made with each other to divide powers, profits, "and privileges," (meaning that the said last-mentioned act of Parliament was a bargain which the parts of the government in England made with each other to divide powers, profits, and privileges) "You shall have so much, and I "will have the rest. And with respect to the nation, it said, "for your share you shall have the right of petitioning. "This being the case, the Bill of Rights" (meaning the said last-mentioned act of Parliament) "is more properly "a bill of wrongs and of insult. As to what is called the "Convention Parliament, it" (meaning the said convention of Lords Spiritual and Temporal, and Commons, herein-before mentioned) "was a thing that made itself, and "then made the authority by which it acted. A few persons got together, and called themselves by that name; "several of them had never been elected, and none of
" them

" them for the purpose. From the time of William,"
 (meaning the said King William the Third) " a species of
 " government arose issuing out of this coalition Bill of
 " Rights;" (meaning the said act, intituled, an act declaring
 the rights and liberties of the subject, and settling the succe-
 sion of the crown) " and more so since the corruption intro-
 " duced at the Hanover succession," (meaning the succe-
 sion of the Princess Sophia, Electress and Duchess Dow-
 ger of Hanover, to the crown and dignity of this kingdom)
 " by the agency of Walpole, that" (meaning the said spe-
 cies of government) " can be described by no other name
 " than a despotic legislation. Though the parts may em-
 " barraß each other, the whole has no bounds; and the
 " only right it acknowledges out of itself, is the right of
 " petitioning. Where then is the constitution either that
 " gives or restrains power? It is not because a part of the
 " government" (meaning the government of this kingdom)
 " is elective, that makes it less a despotism. If the persons
 " so elected possess afterwards, as a Parliament, unlimited
 " powers, election, in this case, becomes separated from
 " representation, and the candidates are candidates for des-
 " potism." And in another part thereof, according to the
 tenor and effect following, (that is to say) " The attention
 " of the government of England (for I rather chuse to call
 " it by this name than the English government) appears,
 " since its political connection with Germany, to have been
 " so completely engrossed and absorbed by foreign affairs,
 " and the means of raising taxes, that it seems to exist for
 " no other purposes. Domestic concerns are neglected;
 " and with respect to regular law, there is scarcely such a
 " thing." And in another part thereof, according to the
 tenor and effect following, (that is to say) " With respect
 " to the two Houses of which the English Parliament"
 (meaning the Parliament of this kingdom) " is composed,
 " they appear to be effectually influenced into one, and, as
 " a Legislature, to have no temper of its own. The mini-
 " ster," (meaning the minister employed by the King of
 this realm, in the administration of the government thereof)
 " whoever he at any time may be, touches it" (meaning
 the two Houses of Parliament of this kingdom) " as with
 " an opium wand, and it" (meaning the two Houses of Par-
 liament of this kingdom) " sleeps obedience. But if we
 " look at the distinct abilities of the two Houses," mean-
 ing the two Houses of Parliament of this kingdom) " the
 " difference will appear so great, as to shew the inconsisten-

"cy of placing power where there can be no certainty of
 "the judgment to use it. Wretched as the state of repre-
 "sentation is in England," (meaning the state of represen-
 "tation of the Commons of this kingdom) "it is manhood,
 "compared with what is called the House of Lords;"
 (meaning the Lords Spiritual and Temporal, in Parliament
 assembled) "and so little is this nicknamed House" (meaning
 the House of Lords) "regarded, that the people scarcely in-
 "quire at any time what it is doing. It" (meaning the said
 House of Lords) "appears also to be most under influence,
 "and the farthest removed from the general interest of the
 "nation." And in another part thereof, according to the
 tenor and effect following, viz. "Having thus glanced at
 "some of the defects of the two Houses of Parliament,"
 (meaning the Parliament of this kingdom) "I proceed to
 "what is called the crown," (meaning the crown of this
 kingdom) "upon which I shall be very concise. It" (mean-
 ing the crown of this kingdom) "signifies a nominal office
 "of a million sterling a year, the business of which consists
 "in receiving the money. Whether the person" (meaning
 the King of this realm) "be wise or foolish, sane or in-
 "sane, a native or a foreigner, matters not; every minis-
 "try" (meaning the ministry employed by the King of this
 realm in the administration of the government thereof)
 "acts upon the same idea that Mr. Burke writes, namely,
 "that the people" (meaning the subjects of this kingdom)
 "must be hoodwinked and held in superstitious ignorance by
 "some bugbear or other; and what is called the crown"
 (meaning the crown of this kingdom) "answers this pur-
 "pose, and therefore it answers all the purposes to be ex-
 "pected from it. This is more than can be said of the
 "other two branches. The hazard to which this office"
 (meaning, amongst others, the office of King of this realm)
 "is exposed in all countries," (meaning, amongst others,
 this kingdom) "is not from any thing that can happen to
 "the man," (meaning the King) "but from what may hap-
 "pen to the nation," (meaning, amongst others, this kingdom)
 "the danger of coming to its senses." And in another part
 thereof, according to the tenor and effect following, (that is
 to say) "I happened to be in England at the celebration of
 "the centenary of the Revolution of 1688. The charac-
 "ters of William and Mary" (meaning the said late King
 William and Queen Mary) "have always appeared to me
 "detestable; the one" (meaning the said late King Willi-

am) "seeking to destroy his uncle, and the other" (meaning the said Queen Mary) "her father, to get possession of power themselves. Yet as the nation was disposed to think something of that event, I felt hurt at seeing it ascribe the whole reputation of it to a man" (meaning the said late King William the Third) "who had undertaken it as a job, and who, besides what he otherwise got, charged six hundred thousand pounds for the expence of the little fleet that brought him from Holland. George the First" (meaning George the First, late King of Great Britain, &c.) "acted the same close-fisted part as William," (meaning the said William the Third) "had done, and bought the Duchy of Bremin with the money he got from England, two hundred and fifty thousand pounds over and above his pay as King; and having thus purchased it at the expence of England, added it to his Hanoverian dominions for his own private profit. In fact, every nation that does not govern itself is governed as a job. England has been the prey of jobbs ever since the Revolution." And in another part thereof, according to the tenor and effect following (that is to say) "The fraud, hypocrisy, and imposition of governments" (meaning amongst others, the government of this kingdom) "are now beginning to be too well understood to promise them any long career. The farce of monarchy and aristocracy in all countries is following that of chivalry, and Mr. Burke is dressing for the funeral. Let it then pass quietly to the tomb of all other follies, and the mourners be comforted. The time is not very distant when England will laugh at itself for sending to Holland, Hanover, Zell, or Brunswick, for Men" (meaning the Kings of these realms, born out of the same, who have acceded to the crown thereof at and since the Revolution) "at the expence of a million a year, who understood neither her laws, her language, nor her interest, and whose capacities would scarcely have fitted them for the office of a Parish Constable. If government could be trusted to such hands, it must be some easy and simple thing indeed, and materials fit for all the purposes may be found in every town and village in England." In contempt of our said Lord the King and his laws, to the evil example of all others in the like case offending, and against the peace of our said Lord the King, his crown and dignity. And the said Attorney General of our said Lord the King, for our said Lord the King, further gives the Court

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here to understand and be informed, that the said Thomas Paine being a wicked, seditious, and ill-disposed person, and wickedly, seditiously, and maliciously, intending to scandalize, traduce, and vilify, the character of the said late Sovereign Lord, King William the Third, and the said late happy Revolution, and the Parliament of England, by whose means the same was established, commonly called the Convention Parliament; and the laws and statutes of this realm limiting and establishing the succession to the crown of this kingdom, and the statute declaring the rights and liberties of the subject, commonly called the Bill of Rights, and the happy constitution and government of this kingdom, as by law established, and to bring the constitution, legislation, and government, of this kingdom into hatred and contempt with his Majesty's subjects; and to stir up and excite discontents and seditions among his Majesty's subjects, and to fulfil, perfect, and bring to effect his said wicked, malicious, and seditious intentions, on the said Sixteenth Day of February, in the Thirty Second Year aforesaid, at London aforesaid, in the Parish and Ward aforesaid, he, the said Thomas Paine, wickedly, maliciously, and seditiously, did write and publish, and cause and procure to be written and published, a certain other false, scandalous, malicious, and seditious libel, in which, amongst other things, are contained certain false, scandalous, malicious, and seditious matters, of and concerning the character of the said late Sovereign Lord King William the Third, and the said Revolution and the said Parliament, and the laws and statutes of this realm, and the happy constitution and government thereof, as by law established, according to the tenor and effect following, (that is to say) "The history of the Edwards, and the Henries," (meaning Edwards and Henries, heretofore Kings of England) "and up to the commencement of the Stuarts," (meaning Stuarts, heretofore Kings of England) "exhibits as many instances of tyranny as "could be acted within the limits to which the nation," (meaning England) "had restricted it. The Stuarts" (meaning Stuarts, heretofore King of England) "endeavoured to "pass those limits, and their fate is well known. In all "those instances we see nothing of a constitution, but only "of restrictions on assumed power. After this, another "William," (meaning the said late King William the Third) "descended from the same stock, and claiming from "the same origin, gained possession;" (meaning possession of the

the crown of England) "and of the two evils, James and "William," (meaning James the Second, heretofore King of England, and the said King William the Third) "the "nation" (meaning England) "preferred what it thought "the least, since from circumstances it must take one. The "act called the Bill of Rights" (meaning the said statute, declaring the rights and liberties of the subject, commonly called the Bill of Rights) "comes here into view. What "is it" (meaning the said last mentioned statute) "but a "bargain which the parts of the government made with "each other to divide powers, profits, and privileges?" (Meaning that the said last-mentioned statute was a bargain which the parts of government in England made with each other to divide powers, profits, and privileges) "You shall "have so much, and I will have the rest. And with respect "to the nation" (meaning England) "it said, for your share "you shall have the right of petitioning. This being the "case, the Bill of Rights" (meaning the said last-mentioned statute) "is more properly a Bill of Wrongs and of insult. As to what is called the Convention Parliament," "it" (meaning the aforesaid Parliament of England, commonly called the Convention Parliament) "was a thing that "made itself, and then made the authority by which it acted. "A few persons got together, and called themselves by that "name. Several of them had never been elected, and none "of them for the purpose. From the time of William," (meaning the said King William the Third) "a species of "government" (meaning the government of England) "arose, issuing out of this coalition Bill of Rights;" (meaning the said statute, declaring the rights and liberties of the subject) "and more so since the corruption introduced "at the Hanover Succession," (meaning the succession of the heirs of the Princess Sophia, Electress and Dutchess Dowager of Hanover, to the crown and dignity of this kingdom) "by the agency of Walpole, that" (meaning the said species of government) "can be described by no "other name than a despotic legislation. Though the parts "may embarrass each other, the whole has no bounds; and "the only right it acknowledges out of itself, is the right "of petitioning. Where then is the constitution either "that gives or that restrains power? It is not because that "part of the government" (meaning the government of this kingdom) "is elective, that makes it less a despotism. "If the persons so elected possess afterwards, as a Parliament,

"unlimited

“ unlimited powers, election in this case, becomes separated from representation, and the candidates are candidates for despotism.” In contempt of our said Lord the King and his laws, to the evil example of all others in the like case offending, and against the peace of our said Lord the King, his crown and dignity. And the said Attorney General of our said Lord the King, for our said Lord the King, further gives the court here to understand and be informed, that the said Thomas Paine being a wicked, seditious, and ill-disposed person, and wickedly, seditiously, and maliciously intending to scandalize, traduce, and vilify the character of the said late Sovereign Lord King William the Third, and the said late happy revolution, and the Parliament of England, by whose means the same was established, commonly called the Convention Parliament; and the laws and statutes of this realm, limiting and establishing the succession to the crown of this kingdom; and the statute declaring the rights and liberties of the subject, commonly called the Bill of Rights; and the happy constitution and government of this kingdom as by law established; and to bring the Constitution, Legislation, and Government of this Kingdom into hatred and contempt with his Majesty’s subjects;—and to stir up and excite discontents and seditions among his Majesty’s subjects; and to fulfil, perfect, and bring to effect his said wicked, malicious, and seditious intentions, on the said sixteenth day of February, in the thirty second year aforesaid, at London aforesaid, in the parish and ward aforesaid, he, the said Thomas Paine, wickedly, maliciously, and seditiously, did print and publish, and cause and procure to be printed and published, a certain other false, scandalous, malicious, and seditious libel, in which, amongst other things, are contained certain false, scandalous, malicious, and seditious, matters, of and concerning the character of the said late Sovereign Lord King William the Third, and the said revolution, and the said Parliament, and the laws and statutes of this realm, and the happy constitution and government thereof, as by law established, according to the tenor and effect following,—(that is to say) “ The history of the Edwards and the Henries,” (meaning Edwards and Henries heretofore Kings of England) “ and up to the commencement of the Stuarts,” (meaning Stuarts, heretofore Kings of England) “ exhibits as many instances of tyranny as could be acted within the limits to which the nation” (meaning England) “ had restricted it. The Stuarts” (meaning

meaning Stuarts, heretofore Kings of England) "endeavored to pass those limits, and their fate is well known. In all those instances we see nothing of a constitution, but only of restrictions on assumed power. After this, another William," (meaning the said late King William the Third) "descended from the same stock, and claiming from the same origin, gained possession;"—(meaning possession of the crown of England) "and of the two evils, James and William," (meaning James the Second, heretofore King of England, and the said King William the Third) "the nation" (meaning England) "preferred what it thought least, since from circumstances it must take one. The act called the Bill of Rights" (meaning the said statute, declaring the rights and liberties of the subject, commonly called the Bill of Rights) "comes here into view. What is it" (meaning the said late-mentioned statute) "but a bargain which the parts of government made with each other to divide powers, profits, and privileges?" (meaning that the said last-mentioned statute was a bargain which the parts of the government in England made with each other to divide powers, profits, and privileges) "You shall have so much, and I will have the rest. And with respect to the nation," (meaning England) "it said, for your share you shall have the right of petitioning.—This being the case, the Bill of Rights" (meaning the said last-mentioned statute) "is more properly a Bill of Wrongs and of insult. As to what is called the Convention Parliament," (meaning the aforesaid Parliament of England) "it" (meaning the aforesaid Parliament of England, commonly called the Convention Parliament) "was a thing that made itself, and then made the authority by which it acted; a few persons got together and called themselves by that name; several of them had never been elected, and none of them for the purpose. From the time of William" (meaning the said King William the Third) "a species of government" (meaning the government of England) "arose, issuing out of this coalition Bill of Rights;" (meaning the said statute declaring the rights and liberties of the subject) "and more so since the corruption introduced at the Hanover succession" (meaning the succession of the heirs of the Princess Sophia, Electress, and Duchess Dowager of Hanover to the Crown and Dignity of this kingdom) "by the agency of Walpole: that" (meaning the said species of government) "can be described

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 “from representation, and the candidates are candidates for
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 his crown, and dignity. And the said Attorney General of
 our said Lord the King, for our said Lord the King, further
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 and ill-disposed person, and being greatly disaffected to our
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 ance of his said Majesty’s subjects from his said Majesty;
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 certain false, scandalous, malicious, and seditious matters,
 of and concerning the Crown of this kingdom, and the
 King’s administration of the government thereof, and of and
 concerning the King and the two Houses of Parliament of
 this kingdom, according to the tenor and effect following,
 viz. “Having thus glanced at some of the defects of the
 “two Houses of Parliament,” (meaning the Parliament of
 this kingdom,) “I proceed to what is called the Crown,”
 (meaning the crown of this kingdom,) “upon which I shall
 “be

"be very concise. It" (meaning the crown of this kingdom)
 "signifies a nominal office of a million sterling a year, the
 "business of which consists in receiving the money: whe-
 "ther the person" (meaning the King of this realm) "be
 "wise or foolish, sane or insane, a native or a foreigner,
 "matters not, the Ministry" (meaning the Ministry employ-
 ed by the King of this realm in the administration of the
 government thereof) "acts upon the same idea that Mr.
 "Burke writes, namely, that the people" (meaning the
 subjects of this kingdom) "must be hoodwinked and held in
 "superstitious ignorance by some bugbear or other; and
 "what is called the Crown" (meaning the Crown of this
 kingdom) "answers this purpose, and therefore it answers
 "all the purposes to be expected from it: this is more than
 "can be said of the other two branches. The hazard to
 "which this office" (meaning, amongst others, the office of
 King of this realm) "is exposed in all countries" (meaning,
 amongst others, this kingdom) "is not from any thing that
 "can happen to the man," (meaning the King) "but from
 "what may happen to the nation," (meaning, amongst others,
 this kingdom) "the danger of its coming to its senses." In con-
 tempt of our said Lord the King and his laws, to the evil ex-
 ample of all others in the like case offending, and against the
 peace of our said Lord the King, his crown, and dignity. And
 the said Attorney General of our said Lord the King, for
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scandalous, malicious, and seditious libel; in which libel, amongst other things, are contained certain false, scandalous malicious, and seditious matters, of and concerning the Crown of this kingdom, and the King's administration of the government thereof, and of and concerning the King and the two Houses of Parliament of this kingdom, according to the tenor and effect following, viz. "Having thus glanced at some of the defects of the two Houses of Parliament," (meaning of the Parliament of this kingdom) "I proceed to what is called the Crown," (meaning the Crown of this kingdom) "upon which I shall be very concise. It" (meaning the Crown of this kingdom) "signifies a nominal office of a million sterling a year, the business of which consists in receiving the money: whether the person" (meaning the King of this realm) "be wise or foolish, sane or insane, a native or a foreigner, matters not, every Ministry" (meaning the Ministry employed by the King of this realm in the administration of the government thereof) "acts upon the same idea that Mr. Burke writes, namely, that the people" (meaning the subjects of this kingdom) "must be hoodwinked and held in superstitious ignorance by some bugbear or other, and what is called the Crown" (meaning the Crown of this kingdom) "answers this purpose, and therefore it answers all the purposes to be expected from it: this is more than can be said of the other two branches. The hazard to which this office" (meaning amongst others, the office of King of this realm) "is exposed in all countries" (meaning amongst others, this kingdom) "is not from any thing that can happen to the man," (meaning the King) "but from what may happen to the nation," (meaning, amongst others, this kingdom) "the danger of its coming to its senses." In contempt of our said Lord the King and his laws, to the evil example of all others in the like case offending, and against the peace of our said Lord the King, his crown, and dignity. And the said Attorney General of our said Lord the King, for our said Lord the King, further giveth the Court here to understand and be informed, that the said Thomas Paine, being a wicked, malicious, seditious, and ill-disposed person, and being greatly disaffected to our said Lord the King, and the Constitution and Government of this kingdom, and wickedly, maliciously, and seditiously intending, devising, and contriving

triving to asperse, defame, and vilify the characters of the late Sovereign Lord and Lady William and Mary, heretofore King and Queen of England, and of George the First, heretofore King of Great Britain, &c. ; and to asperse, defame, and vilify, the happy Revolution, providentially effected under the wise and prudent conduct of the said King William and Queen Mary, and to bring the said Revolution, and the characters of the said King William and Queen Mary, and King George the First, into hatred and contempt with the subjects of this realm, and to stir up and excite discontents and seditions among his Majesty's subjects, and to alienate and withdraw the affection, fidelity, and allegiance of his Majesty's subjects from his said present Majesty; and to fulfil, perfect, and bring to effect his said wicked, malicious, and seditious intentions, on the said sixteenth day of February, in the thirty-second year of the reign of our Lord the now King, at London aforesaid, in the parish and ward aforesaid, wickedly, maliciously, and seditiously, did write and publish, and cause to be written and published, a certain other false, wicked, malicious, scandalous, and seditious libel; in which same libel, amongst other things, are contained certain false, wicked, malicious, scandalous, and seditious matters, of and concerning the said King William and Queen Mary, and the said King George the First, and the said Revolution, according to the tenor and effect following, (that is to say) "I happened to be in England at the celebration of the Revolution of 1688." (meaning the said Revolution) "The character of William and Mary" (meaning the said late King William and Queen Mary) "have always appeared to me detestable; the one" (meaning the said King William) "seeking to destroy his uncle, and the other" (meaning the said Queen Mary) "her father, to get possession of power themselves; yet, as the nation was disposed to think something of that event, I felt hurt at seeing it ascribe the whole reputation of it to a man" (meaning the said late King William the Third) "who had undertaken it as a job; and who, besides what he otherwise got, charged six hundred thousand pounds for the expence of the little fleet that brought him from Holland. George the First" (meaning George the First, late King of Great Britain, &c.) "acted the same close-fisted part as William" (meaning the said King William the Third) "had done, and
"bought

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 “ England, two hundred and fifty thousand pounds over
 “ and above his pay as King; and having thus purchased it
 “ at the expence of England, added it to his Hanoverian
 “ dominions for his own private profit: in fact, every na-
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 “ England has been the prey of jobbs ever since the Revo-
 “ lution.” (meaning the aforesaid Revolution.) In con-
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said Revolution, according to the tenor and effect following,
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 "tion of the centenary of the Revolution of 1688."
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 "and Mary" (meaning the said late King William and
 Queen Mary) "have always appeared to me detestable; the
 "one" (meaning the said King William) "seeking to de-
 "stroy his uncle, and the other" (meaning the said Queen
 Mary) "her father, to get possession of power themselves;
 "yet, as the nation was disposed to think something of that
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 "of it to a man" (meaning the said late King William
 the Third) "who had undertaken it as a jobb; and who,
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 "sand pounds for the expence of the little fleet that brought
 "him from Holland. George the First" (meaning George
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 "own private profit: in fact, every nation that does not
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 being great disaffected to our said Lord the King, and the
 Constitution and Government of this kingdom, and wicked-
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said Revolution and the characters of the said King William and King George the First into hatred and contempt with the subjects of this realm; and to stir up and excite discords and seditions among his Majesty's subjects, and to alienate and withdraw the affection, fidelity, and allegiance, of his Majesty's subjects from his said present Majesty; and to fulfil, perfect, and bring to effect, his said wicked, malicious, and seditious intentions, on the said sixteenth day of February, in the thirty-second year of the reign of our Lord the now King, at London aforesaid, in the parish and ward aforesaid, wickedly and maliciously did write and publish, and cause to be written and published, a certain other false, wicked, malicious, scandalous, and seditious libel, in which same libel, amongst other things, are contained certain false, wicked, malicious, scandalous, and seditious matters, of and concerning the said King William the Third, and the said King George the First, and the said Revolution, according to the tenor and effect following, (that is to say) "The fraud, hypocrisy, and imposition, of Government" (meaning, amongst others, the government of this kingdom) "are now beginning to be too well understood to prosecute them any long career. The farce of monarchy and aristocracy in all countries is following that of chivalry, and Mr. Burke is dressing for the funeral. Let it then pass quietly to the tomb of all other follies, and the mourners be comforted. The time is not very distant when England will laugh at itself for sending to Holland, Hanover, Zell, or Brunswick, for men," (meaning the said King William the Third, and King George the First) "at the expence of a million a year, who understood neither her laws, her language, nor her interest; and whose capacities would scarcely have fitted them for the office of a parish constable. If government could be trusted to such hands, it must be some easy and simple thing indeed; and materials fit for all the purposes may be found in every town and village in England." In contempt of our said Lord the now King and his laws, to the evil example of all others in the like case offending, and against the peace of our said Lord the King, his crown and dignity. And the said Attorney General of our said Lord the King, for our said Lord the King, further gives the court here to understand and be informed, that the said Thomas Paine being a wicked, malicious, seditious, and ill-disposed

posed person, and being greatly disaffected to our said Lord the King, and the constitution and government of this kingdom, and wickedly, maliciously, and seditiously, intending, devising, and contriving, to asperse, defame, and vilify, the character of the late Sovereign Lord William heretofore King of England, and of George the First heretofore King of Great Britain, &c. and to asperse, defame, and vilify, the happy revolution, providentially effected under the wise and prudent conduct of the said King William, and to bring the said Revolution and the characters of the said King William and King George the First into hatred and contempt with the subjects of this realm; and to stir up and excite discontents and seditions among his Majesty's subjects, and to alienate and withdraw the affection, fidelity, and allegiance of his Majesty's subjects from his said present Majesty, and to fulfil, perfect, and bring to effect, his said wicked, malicious, and seditious intentions, on the said sixteenth day of February, in the thirty-second year of the reign of our Lord the now King, at London aforesaid, in the parish and ward aforesaid, wickedly, maliciously, and seditiously, did print and publish, and cause to be printed and published, a certain other false, wicked, malicious, scandalous, libel; in which same libel, amongst other things, are contained certain false, wicked, malicious, scandalous, and seditious matters, of and concerning the said King William the Third, and the said King George the First, and the said Revolution, according to the tenor and effect following, (that is to say) "The fraud, hypocrisy, and imposition, of Governments," (meaning, among others, the government of this kingdom) "are now beginning to be too well understood to promise them any long career. The farce of monarchy and aristocracy in all countries is following that of chivalry, and Mr. Burke is dressing for the funeral. Let it then pass quietly to the tomb of all other follies, and the mourners be comforted. The time is not very distant when England will laugh at itself for sending to Holland, Hanover, Zell, or Brunswick, for men" (meaning the said King William the Third, and King George the First) "at the expence of a million a year, who understood neither her laws, her language, nor her interest, and whose capacities would scarcely have fitted them for the office of a parish constable. If government could be trusted to such hands, it must be some easy and simple thing indeed; and

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"materials

“ materials fit for all the purposes may be found in every
“ town and village in England.” In contempt of our said
Lord the now King and his laws, to the evil example of all
others in the like case offending, and against the peace of our
said Lord the King, his crown and dignity. Whereupon
the said Attorney General of our said Lord the King, who
for our said Lord the King in this behalf, prosecuteth for
our said Lord the King, prayeth the consideration of the
court here in the premises, and that due process of law may
be awarded against him the said Thomas Paine in this behalf,
to make him answer to our said Lord the King, touching and
concerning the premises aforesaid.

To this information the defendant hath appeared, and
pleaded Not Guilty, and thereupon issue is joined.

Court

Court of KING's BENCH, Guildhall, London,

DECEMBER 18th, 1792,

Before the RIGHT HON. LORD KENYON.

SPECIAL JURY.

JOHN CAMPBELL,
JOHN LIGHTFOOT,
CHRISTOPHER TADDY,
ROBERT OLIPHANT,
CORNELIUS DONOVAN,
ROBERT ROLLESTON,

JOHN LUBBOCK,
RICHARD TUCKWELL,
WILLIAM PORTER,
THOMAS DRUCE,
ISAAC RAILTON,
HENRY EVANS.

Counsel for the Crown.

THE ATTORNEY GENERAL,
THE SOLICITOR GENERAL,
MR. BEARCROFT,
MR. BALDWIN,
MR. WOOD,
MR. PERCIVAL.

Counsel for the Defendant.

THE HON. THO. ERSKINE,
MR. BIGGOT,
MR. SHEPHERD,
MR. FITZGERALD,
MR. F. VAUGHAN.

Solicitors.

Messrs. CHAMBERLAYNE
and WHITE.

Solwitor.

Mr. BONNEY.

(The information was opened by Mr. Percival.)

MR. ATTORNEY GENERAL.

Gentlemen of the Jury.

You will permit me to solicit, and for no long space of time, in the present stage of this business, somewhat of your attention to a cause which, considering it on its own merits only, is, in my humble judgment, a plain, a clear, a short, and indisputable case. Were it not, Gentlemen, that certain circumstances have rendered it a case of more expectation than ordinary, I do assure you that I should literally have contented myself this day with conducting myself in the manner that I did upon the last occasion that I was called upon to address a Jury upon this sort of subject, namely, by simply reading to you the passages which I have selected, and leaving it entirely to your judgment. But, Gentlemen, it so happens that the accumulated mischief which has arisen from the particular book that is now before you, and the consequences, which every body is acquainted with, which have followed from this publication, have rendered it necessary, perhaps, that I should say a few words more in the opening than it would have been my intention to have done, had it not been for those circumstances.

Gentlemen, in the first place you will permit me, without the imputation, I think, of speaking of myself, (a very trifling subject, and always a disgusting one to others) to obviate a rumour which I have heard, namely, that this prosecution does not correspond with my private judgment; that
has

has been said, and has reached my ears from various quarters. The refutation that I shall give to it is this : That I should think I deserved to be with disgrace expelled from the situation with which his Majesty has honoured me in your service, and that of all my fellow subjects, had I, as far as my private judgment goes, hesitated for one instant to bring this enormous offender, as I consider him, before a Jury of his country.

Gentlemen, the publication in question was not the first of its kind which this defendant sent forth into the world. This particular publication was preceded by one upon the same subjects, and handling, in some measure, the same topics. That publication, although extremely reprehensible, and such as, perhaps, I was not entirely warranted in overlooking, I did overlook, upon this principle, that it may not be fitting and prudent at all times, for a public prosecutor to be sharp in his prosecutions, or to have it said that he is instrumental in preventing any manner of discussion coming under the public eye, although in his own estimation it may be very far indeed from that which is legitimate and proper discussion. Reprehensible as that book was, extremely so in my opinion, yet it was ushered into the world under circumstances that led me to conceive that it would be confined to the judicious reader, and when confined to the judicious reader, it appeared to be that such a man would refuse as he went along.

But, gentlemen, when I found that another publication was ushered into the world still more reprehensible than the former, that in all shapes, in all sizes, with an industry incredible ; it was either totally or partially thrust into the hands of all persons in this country, of subjects of every description ; when I found that even children's sweet-meats were wrapped up with parts of this, and delivered into their hands, in the hope that they would read it, when all industry was used, such as I describe to you, in order to obtrude and force this upon that part of the public whose minds cannot be supposed to be conversant with subjects of this sort, and who cannot therefore correct as they go along, I thought it behoved me upon the earliest occasion, which was the first day of the term succeeding this publication, to put a charge upon record against its author.

Now, gentlemen, permit me to state to you what it is that I impute to this book, and what is the intention that I impute

impute to the writer of this book. Try it by every test that the human mind can possibly suggest, and see whether when tried by all the variety of those tests, you will not be satisfied in the long run, that it does deserve that description which my duty obliges me to give of it.

Gentlemen, in the first place I impute to it a wilful, deliberate intention to vilify and degrade, and thereby to bring into abhorrence and contempt, the whole constitution of the government of this country; not as *introduced*, that I will never admit, but as *explained and restored* at the Revolution. That system of government under which we this day live, and which if it shall be attacked by contemptuous expressions, if by dogmatical dicta, if by ready-made propositions, offered to the understandings of men solicitous about the nature of their constitution, properly so, (God forbid they ever should be otherwise) but who, at the same time, may be easily imposed upon to their own destruction, they may be brought to have diffidence and even abhorrence (for this book goes all that length) of that which is the salvation of the public, and every thing which is dear to them.

I impute then to this book a deliberate design to eradicate from the minds of the people of this country that enthusiastic love which they have hitherto had for that constitution, and thereby to do the utmost work of mischief that any human being can do in this society.

Gentlemen, further I impute to it that, *in terms*, the regal part of the government of this country, bounded and limited as it is, is represented as an oppressive and an abominable tyranny.

Thirdly. That the whole legislature of this country is directly an usurpation.

Again, with respect to the laws of this realm, which hitherto have been our boast, indiscriminately and without one single exception, that they are grounded upon this usurped authority, and are therefore in themselves null, or, to use his own words—that there is little or no law in this country.

Then, gentlemen, is it to be held out to a community of ten or twelve millions of people, is it to be held out, as well to the lower as to the better informed classes of these ten or twelve millions, that there is nothing in this society that is binding upon their conduct, excepting such portion of religion or morality as they may individually entertain?

Gentlemen, are we then a lawless banditti? Have we neither laws to secure our property, our persons, or our reputations?—

tations?—Is it so that every man's arms are unbound, and that he may do whatever he pleases in the society?—Are we reduced back again to that savage state of nature? I ask you the question! You, gentlemen, know well what the answer is; but, gentlemen, are we to say, that a man who holds this out to those who are not furnished with the means of giving the answer which I know you, and every gentleman who hears me at this moment, will give, is discussing a question? Can any thing add to his slander upon the constitution; and upon the separate parts of the government, so constituted as ours is, more than that sweeping imputation upon the whole system of law that binds us together—namely, that it is null and void, and that there is in reality no such thing to be found?

Gentlemen, in the several passages which I shall read to you, I impute this to him; also, that he uses an artifice gross to those who can observe it, but dangerous in the extreme to those whose minds perhaps are not sufficiently cultivated and habituated to reading to enable them to discover it: the artifice, in order to create disgust, is neither more nor less than this—it is stating all the objections that can possibly be urged to monarchy, separately and solely considered, and to pure and simple aristocracy; he never chuses to say a single syllable with respect to those two as combined with a democracy, forbearing also to state, and industriously keeping out of the way, every circumstance that regards that worst of all governments, an unbalanced democracy, which is necessarily pregnant with a democratical tyranny. This is the gross artifice; and when you come to dissect the book in the careful manner that I have done, I believe you and every other reader will easily detect that artifice.

Gentlemen, to whom are the positions that are contained in this book addressed? They are addressed, gentlemen, to the ignorant, to the credulous, to the desperate; to the desperate all government is irksome, nothing can be so palatable to their ears as the comfortable doctrine that there is neither law nor government amongst us.

The ignorant and the credulous, we all know, to exist in all countries, and perhaps exactly in proportion as their hearts are good and simple, are they an easy prey to the crafty who have the cruelty to deceive them.

Gentlemen in judging of the malignant intention which I must impute to this author, you will be pleased to take into your consideration the phrase and the manner as well as
the

the matter. The phrase I state to be insidious and artful, the manner in many instances scoffing and contemptuous, a short argument, often a prevalent one, with the ignorant or the credulous. With respect to the *matter*, in my conscience I call it treason, though technically, according to the laws of the country, it is not;—for, gentlemen, balance the inconvenience to society of that which is technically treason, and in this country, we must not, thank God, extend it but keep it within its most narrow and circumscribed definitions, but consider the comparative difference of the mischief that may happen from spreading doctrines of this sort, and that which may happen from any treason whatever.

In the case of the utmost degree of treason, even perpetrating the death of a prince upon the throne, the law has found the means of supplying that calamity in a manner that may save the country from any permanent injury. In many periods of the history of this country, which you may easily recollect, it is true that the reign of a good prince has been interrupted by violence,—a great evil!—but not so great as this: the chasm is filled up instantly by the constitution of this country, even if that last of treasons should be committed.

But where is the power upon earth that can fill up the chasm of a constitution that has been growing;—not for seven hundred years, as Mr. Paine would have you believe, from the Norman conquest, but from time almost eternal, impossible to trace; that has been growing as, from the symptoms Julius Cæsar observed when he found our ancestors nearly savages in the country, has been growing from that period until it was consummated at the Revolution, and shone forth in all its splendour.

In addition to this, this gentleman thinks fit even to impute to the existence of that constitution, such as I have described it, the very evils inseparable from human society, or even from human nature itself; all these are imputed to that scandalous, that wicked, that usurped constitution under which we, the subjects of this country, have hitherto mistakenly conceived that we lived happy and free.

Gentlemen, I apprehend it to be no very difficult operation of the human mind to distinguish reasoning and well meant discussion from a deliberate design to calumniate the law and constitution under which we live, and to withdraw men's allegiance from that constitution; it is the operation of good sense: it is therefore no difficult operation for a jury of the City

City of London: therefore you will be pleased to observe whether the whole of this book, I should rather say, such part as I am at present at liberty to advert to, is not of this description, that it is by no means calculated to discuss and to convince, but to perform the shorter process of inflammation; not to reason upon any subject, but to dictate; and, gentlemen, as I stated to you before, to dictate in such a manner, and in such a phrase, and with all such circumstances as cannot, in my humble apprehension, leave the most remote doubt upon your minds of what was passing in the heart of that man who composed that book.

Gentlemen, you will permit me now to say a word or two upon those passages, which I have selected to you, first describing a little what those passages are. I have thought it much more becoming, much more beneficial to the public, than any other course that I could take, to select six or seven, and no more, (not wishing to load the record unnecessarily) of those passages that go to the very root of our constitution, that is the nature of the passages which I have selected, and gentlemen, the first of them is in page 21, where you will find this doctrine.

“ All hereditary government is in its nature tyranny, an heritable crown, or an heritable throne, or by what other fanciful name such things may be called, have no other significant explanation than that mankind are heritable property. To inherit a government is to inherit the people, as if they were flocks and herds.”

Now, gentlemen, what is the tendency of this passage? “ All hereditary government is in its nature tyranny.” So that no qualification whatever, not even the subordination to the law of the country, which is the only paramount thing that we know of in this country, can take it out of the description of tyranny; the regal office being neither more nor less than a trust executed for the subjects of this country; the person who fills the regal office being understood, in this country, to be neither more nor less than the chief executive magistrate heading the whole gradation of magistracy.

But without any qualification he states it roundly, that under all circumstances whatever hereditary government must in its nature be tyranny; what is that but to hold out to the people of this country that they are nought but slaves; to be sure, if they are living under a tyranny, it is impossible to draw any other consequence.

This is one of those short propositions that are crammed down the throat of every man that is accessible to their ears in this country; this is one of those propositions, which, if he believes, must have the due effect upon his mind, of saying, the case is come when I understand I am oppressed, I can bear it no longer.

“An heritable crown.” Ours is an heritable crown, and there it is comprehended in this dogma: “Or by what other fanciful name such things may be called.” Is that discussion? Contemptuous, vilifying, and degrading expressions of that sort are applied to that which we are accustomed to look to with reverence, namely, the representation of the whole body of magistracy and of the law—“have no other significant explanation than that mankind are heritable property.—“To inherit a government is to inherit the people, as if they were flocks and herds.”

Why, gentlemen, are the people of England to be told, without further ceremony, that they are inherited by a King of this country, and that they are precisely in the case of sheep and oxen? I leave you to judge if such gross, contemptible, and abominable falsehood is delivered out in bits and scraps of this sort, whether that does not call aloud for punishment?

Gentlemen, only look at the truth; the converse is directly the case. The King of this country inherits an office under the law; he does not inherit persons; we are not in a state of villenage; the direct reverse to what is here pointed out is the truth of the matter; the King inherits an office, but as to any inheritance of his people, none, you know, belongs to him, and I am ashamed to say any thing more upon it.

The next is in page 47, in which this man is speaking of the Congress at Philadelphia in 1787, which was held because the government of that country was found to be extremely defective as at first established.

“This Convention met at Philadelphia, in May 1787, of which General Washington was elected president; he was not at that time connected with any of the State-governments or with Congress. He delivered up his commission when the war ended, and since then had lived a private citizen.

“The Convention went deeply into all the subjects, and having after a variety of debate and investigation, agreed among

“ among themselves upon the several parts of a federal Constitution, the next question was the manner of giving it authority and practice.”

What is the conclusion of that—they certainly agreed upon an appointment of their federal Constitution in 1787. I should have thought that a man, meaning nothing more than history, would have been very well contented to have stated what actually did happen upon that occasion; but, in order to discuss (as possibly it may be called) something that formerly did pass in this country, he chose to do it in these inflaming and contemptuous terms.

“ For this purpose they did not, like a cabal of courtiers, send for a Dutch Stadtholder or a German Elector; but they referred the whole matter to the sense and interest of the country.”

Here again the revolution and the act of settlement stare us in the face, as if the interest and the sense of the country were in no way consulted; but, on the contrary, it was nothing more than a mere cabal of courtiers.—Whether that is or is not to be endured in this country, your verdict will shew; but, in order to shew you how totally unnecessary this passage was, except for the deliberate purpose of calumny; if this passage had been left out, the narration would have been quite perfect. I will read three or four lines just to shew how perfect it would have been:—“ The next question was about the manner of giving it authority and practice.” The passage beyond that which I call a libel,—“ They first directed that the proposed Constitution should be published; secondly, that each State should elect a Convention, for the purpose of taking it into consideration, and of ratifying or rejecting;” and so the story goes on—but, in order to explain what I mean by a dogma thrust in, I call your attention to this, as one of those which has no earthly connexion with the subject he was then speaking of.

Does not this passage stand insulated between the two parts of the connected story officiously and designedly thrust in for the purposes of mischief? Gentlemen, the artifice of that book consists also in this; the different wicked passages that are meant to do mischief in this country, are spread throughout it, and stuck in here and there, in a manner that in order to see the whole malignity of it, it is necessary to have a recollection of several preceding passages; but these

when brought together manifestly shew the full design of the writer, and therefore extracts of it may be made to contain the whole marrow; and at the same time that each passage, taken by itself, will do mischief enough, any man reading them together, will see that mischief come out much clearer than by a mere transient reading.

The next passage I have to observe upon is in page 52, and he is pleased to express himself in this manner: he says,

“ The history of the Edwards and the Henrys, and up to the commencement of the Stuarts, exhibits as many instances of tyranny as could be acted within the limits to which the nation had restricted it; the Stuarts endeavoured to pass those limits, and their fate is well known. In all these instances we see nothing of a Constitution, but only of restrictions on assumed power.”

Then, gentlemen, from the reign of the Edwards and the Henrys down to the Revolution, it was a regular progression of tyranny, not a progression of liberty but of tyranny, till the Stuarts stepped a little beyond the line in the gradation that was going forwards, and that begot a necessity for a revolution; but of the Edwards I should have thought, at least, he might have spared the founder of our jurisprudence, King Edward the First, beside many other Princes, the glory and the boast of this country, and many of them regarders of its freedom and Constitution; but instead of that, this author would have the people of this country believe that up to that time it was a progressive tyranny, and that there was nothing of a Constitution, only restrictions on assumed power;—so that all the power that existed at that time was assumption and usurpation.

He thus proceeds “ After this another William descended from the same stock, and claiming from the same origin, gained possession, and of the two evils, James and William, the nation preferred what it thought the least.” So that the deliverance of this country by the Prince of Orange was an evil, but the least of the two, “ Since from circumstances it must take one. The act called the Bill of Rights comes here into view: What is it but a bargain which the parts of the government made with each other to divide powers, profits, and privileges? You shall have so much, and I will have the rest; and with respect to the nation it said, *for your share you shall have the right of petitioning.* This being the case, the Bill of Rights is more properly

“ properly a BILL OF WRONGS AND OF INSULT. As to
 “ what is called the Convention Parliament, it was a thing
 “ that made itself, and then made the authority by which it
 “ acted; a few persons got together, and called themselves
 “ by that name; several of them had never been elected, and
 “ none of them for the purpose.”

“ From the time of William a species of government a-
 “ rose, issuing out of this coalition Bill of Rights, and more
 “ so since the corruption introduced at the Hanover succeſ-
 “ ſion by the agency of Walpole, that can be deſcribed by
 “ no other name than a deſpotic legiſlation.

Now, gentlemen, this is the deſcription that this man
 holds out of that on which reſts the property, the lives, and
 liberties, and the privileges of the people of this country.
 I wonder to God, gentlemen, that any Britiſh man (for ſuch
 this man certainly was, and ſtill is) to uſe the words of our
 own Poet, when he ſpoke theſe words, A BILL OF WRONGS,
 A BILL OF INSULT, they did not “ ſtick in his throat.”—
 What is that Bill of Rights? It can never be too often read.
 I will make no comment upon it, becauſe your own heads
 and hearts will make that comment; you have a poſterity to
 look to. Are deſperate ruffians, who are to be found in every
 country, thus to attack the unalienable rights and privileges
 which are to deſcend undiminished to that poſterity?

Are YOU not to take care that this ſhall be ſacred to your
 poſterity. Is it not a truſt in YOUR hands? It is a truſt in
 YOUR hands as much as the execution of the law is a truſt in
 the hands of the crown; each has its guardians in this com-
 munity, but you are the guardians of the Bill of Rights.

Gentlemen, it is this, “ I hat the pretended power of ſuſ-
 “ pending of laws, or the execution of the laws, by regal
 “ authority, without conſent of parliament, is illegal.

“ That the pretended power of diſpenſing with laws, or
 “ the execution of laws, by the regal authority, as it hath
 “ been aſſumed and exerciſed of late, is illegal.”

That is the law is above all.

“ That levying money for or to the uſe of, the Crown,
 “ by pretence of prerogative, without grant of parliament,
 “ for longer time, or in other manner than the ſame is or
 “ ſhall be granted, is illegal.”

“ That it is the right of the ſubjects to petition the king,
 “ and all commitments and proſecutions for ſuch petitions
 “ are illegal.

All

All that you get by the Bill of Rights, according to this man's doctrine, is, that the Commons of this country have the right of petitioning. We all know this alludes to the case of the seven bishops; that was a gross violation of the rights of those subjects of this country; therefore, he states, falsely and maliciously, according to the language of the information, which is perfectly correct in the present case, that the whole that was obtained by the subjects of this country was the right of petitioning; whereas it is declared to be their unalterable right, and ever to have been so, and adverts, as I before stated, to a gross violation of it in a recent case.

" That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is against law."

" That the subjects, which are protestants, may have arms for their defence, suitable to their conditions, and as allowed by law."

" That elections of members of parliament ought to be free."

" That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached, or questioned, in any court or place out of parliament."

" That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

" That jurors ought to be duly impanelled and returned; and jurors which pass upon men in trials for high treason ought to be freeholders."

" That all grants and promises of fines and forfeitures of particular persons, before conviction, are illegal and void."

" And that for the redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently."

Further, gentlemen, this bill goes on to say, " For the ratifying, confirming, and establishing the said declaration, and the articles, clauses, matters, and things, therein contained, by the force of a law made in due form, by authority of Parliament, do pray it may be declared and enacted, that all and singular the rights and liberties asserted and claimed in the said declaration are the true ancient and indubitable rights and liberties of the people of this kingdom,

“ dom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be; and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration, and all officers and ministers whatsoever shall serve their majesties and their successors, according to the same in all times to come.”

Such, gentlemen, is the Bill of Wrongs and of Insult. I shall not profane it by saying one more word upon it.

Now, gentlemen, I would ask you, whether what is said by this man be reasoning or discussion; or whether it is nothing else but deception, and that deception consisting of a most abominable and complete suppression? Is there a word of this act quoted? Has the poor mechanic, to whom this passage is addressed, who is told that he has been wronged and insulted at the revolution, has he this statute by him to read? Would it not have been fair, at least, to have stated what it was? But instead of that, unsight, unseen, (to use a very vulgar expression) this proposition is tendered to the very lowest man in this country, namely, that the Bill of Rights is a Bill of Wrongs and of Insult.

Pass we then on to another; if you will please to make a memorandum of page 56; you will find that in the same spirit, and with the same design, this man tells you that “The intention of the government of England,” here comes in another contemptuous expression (“for I rather chuse to call it by this name than the English government), appears since its political connexion with Germany to have been so completely engrossed and absorbed by foreign affairs, and the means of raising taxes, that it seems to exist for no other purposes.”

The government of the country then does not exist for the purpose of preserving our lives and properties; but the government, I mean the Constitution of the country, Kings, Lords, and Commons, exists for no other purpose but to be the instruments of raising taxes. To enter into any discussion of that, is taking up your time unnecessarily—I only beg to draw your attention to the dogmatical and cavalier manner in which these things are asserted; further, he says—“Domestic concerns are neglected, and with respect to regular law, there is scarcely such a thing.”

I stand in the city of London; I am addressing myself to gentlemen eminent in that city, whether the legislature, since the

the revolution, has, or not, adverted to domestic concerns : I think I may appeal to the growing prosperity of this country, from the moment that the night mare has been taken off its stomach, which pressed upon it up to that moment.

We then proceed to page 63, where, after the whole Constitution of this country has been thus treated in gross, he proceeds a little to dissect and consider the component parts of that Constitution; and in page 63, in a dogma, we have this :

“ With respect to the two Houses of which the English Parliament is composed, they appear to be effectually influenced into one, and, as a legislature, to have no temper of its own. The Minister, whoever he at any time may be, touches it, as with an opium wand, and it sleeps obedience.”

Now, gentlemen, here is another dogma without a single fact, without a single argument ; but it is held out to the subjects of this country, that there is no energy or activity in either the aristocratical or democratical parts of this Constitution, but that they are asleep, and you might just as well have statutes there ; it is not merely said that it is so now, but it is in the nature of things, says he, that it should be so.

“ But if we look at the distinct abilities of the two Houses, the difference will appear so great as to shew the inconsistency of placing power where there can be no certainty of the judgment to use it.—Wretched as the state of representation is in England, it is manhood compared with what is called the House of Lords, and so little is this nickname, House regarded, that the people scarcely inquire at any time what it is doing. It appears also to be most under influence, and the furthest removed from the general interest of the nation.”

Now, gentlemen, this is again speaking in this man's contemptuous manner, at the expence of the aristocratical part of our constitution of government ; an essentially beneficial part, whose great and permanent interest in the country renders them a firm barrier against any encroachment. I am not to suppose that you are so ignorant of the history of your country, as not to know the great and brilliant characters that have sat in that House. No particular period of time is alluded to in this passage. He surely cannot mean the present

sent time; but I conceive he speaks of all times, and that from the very nature of our government it must everlastingly be so. Slander upon that very great and illustrious part of the legislature (untrue at any period), written in this scurrilous and contemptuous manner, is distinguished greatly indeed from any sober discussion of, whether an aristocratical part of government is a good or bad thing, and is calculated only to mislead and inflame.

If you look next to page 107, there you will find that two of the component parts of the legislature having been thus disposed of, we come up to the throne itself, and this man says very truly of himself:

“ Having thus GLANCED at some of the defects of the two Houses of Parliament, I proceed to *what is called the Crown*, upon which I shall be very concise :

“ It signifies a nominal office of a million a year, the business of which consists in receiving the money; whether the person be wise or foolish, sane or insane, a native or a foreigner, matters not. Every minister acts upon the same idea that Mr. Burke writes, namely, that the people must be hoodwinked, and held in superstitious ignorance by some bugbear or other; and what is called the Crown answers this purpose, and therefore it answers all the purposes to be expected from it.—This is more than can be said of the other two branches.

“ The hazard to which this office is exposed in all countries, including this among the rest, is not from any thing that can happen to the man, but from what may happen to the nation, the danger of its coming to its senses.

Then, gentlemen, we have been insane for these seven or eight hundred years: and I shall just dismiss this with this observation, that this insanity having subsisted so long, I trust in God that it is incurable.

In page 116 you have this note,—“ I happened to be in England at the celebration of the centenary of the revolution of 1688. The characters of William and Mary have always appeared to me detestable; the one seeking to destroy his uncle, and the other her father, to get possession of power themselves; yet as the nation was disposed to think something of that event, I felt hurt at seeing it ascribe the whole reputation of it to a man who had undertaken it as a job, and who, besides what he otherwise got, charged six hundred thousand pounds for the ex-

“ pence of a little fleet that brought him from Holland.—
 “ George the First acted the same close-fisted part as William had done, and bought the Duchy of Bremin with
 “ the money he got from England, two hundred and fifty
 “ thousand pounds over and above his pay as King; and
 “ having thus purchased it at the expence of England, added it to his Hanoverian dominions for his own private
 “ profit.—In fact, every nation that does not govern itself,
 “ is governed as a job. England has been the prey of jobs
 “ ever since the Revolution.”

Then, gentlemen, what he calls a nation governing itself, is something extremely different from a nation having consented from time immemorial to be governed by a democracy, an aristocracy, and an hereditary executive supreme magistrate; and moreover, by a law-paramount, which all are bound to obey, he conceives, I say, that sort of government not to be a government of the people themselves, but he denominates that sort of government a job, and not a government.

Gentlemen, such are the passages which I have selected to you, as those that disclose the most offensive doctrines in the book; that is, such as go fundamentally to the overturning the government of this country.—I beg pardon, I have omitted one which contains more of direct invitation than any thing I have yet stated.—it is in page 161: it is said,
 “ the fraud, hypocrisy and imposition of governments are
 “ now beginning to be too well understood to promise them
 “ any long career.—The farce of monarchy and aristocracy
 “ in all countries is following that of chivalry, and Mr.
 “ Burke is dressing for the funeral—let it then pass quietly
 “ to the tomb of all other follies, and the mourners be comforted. The time is not very distant when England will
 “ laugh at itself for sending to Holland, Hanover, Zell,
 “ or Brunswick, for men, at the expence of a million a year,
 “ who understand neither her laws, her language, nor her
 “ interest, and whose capacities would scarcely have fitted
 “ them for the office of a Parish Constable.

This is said of William the Third—this is said of two very illustrious Princes of the House of Brunswick, George the First and Second, and extends to the present Sovereign upon the throne.

“ If government could be trusted to such hands, it must
 “ be some easy and simple thing indeed, and materials fit
 “ for

“ for all the purposes may be found in every town and village in England.”

The policy of the constitution of this country has ever avoided, excepting when driven to it by melancholy necessity, to disturb the hereditary succession to the throne; and it has wisely thought it more fitting to pursue that system, even though a foreigner should be seated on the throne of these realms, than to break through it.—This would insinuate, that the necessary defects of an hereditary monarchy are such as outweigh the advantages attending that which I have stated. Is that so? I would ask any man who hears me, in point of history, whether it is not the permanent defect of elective monarchies or sovereigns, that they seldom are men of any consideration, and for an obvious reason; most frequently it has happened that turbulent factions, after having desolated their country, one of them (it has so happened, at least in most instances as far as my recollection goes) sets up a tool whom the successful faction can themselves govern at pleasure.—Often has it happened that such factions, when a civil war arises, which must almost necessarily be the case in elective monarchies, not choosing to come to the conclusion of an armed contest, have chosen a very weak person, each in hope of strengthening his party by the time the periodical civil war should come round. I believe, upon examination, this will be found to be generally the case, and to have prevailed in elective monarchies to a greater degree than any inconveniences that may have ever arisen from the natural infirmities of princes who succeeded to their thrones by hereditary rights, in the constitution of Great Britain; for to that, this man alludes.

Has he stated with any sort of fairness, or has he at all stated or adverted to the many, many remedies we have for any defect of that sort? Has he stated the numerous councils of a King? His council of Parliament—his council of his Judges in matters of law—his Privy council? Has he stated the responsibility of all those councils? Some in point of character, some of personable responsibility? Has he stated the responsibility of those immediate servants who conduct his executive government? Has he stated the appointment of regents? Has he stated all this, which is indispensably necessary towards a fair and honest discussion (which this book will possibly be called) of this point of his insuperable objection to hereditary monarchy? Can this be called any

other than gross suppression and wilful mis-statement, to raise discontent in half-informed minds?

There does come across my mind at this moment, unquestionably, one illustrious exception to that doctrine I have stated, of men not the most capable of government having in general been chosen in the case of elective monarchies; and that is a man whom no indignities, no misfortunes, no disappointments, no civil commotions, no provocations, ever forced from the full and steady possession of a strong mind, which has always risen with elasticity under all the pressures that I have stated; and he, though not in one sense of that word a great *Prince*, yet is certainly a great *Man*, who will go down as such to the latest posterity: I mean the King of Poland. Don't imagine, gentlemen, that my adverting to this illustrious character is useless. Every gentleman who hears knows he had a considerable part of his matured education in this country. Here he familiarized himself with the constitution of this country. Here he became informed of the provisions of what this man calls the Bill of Wrongs and Insults, without disparagement to him, for I believe him to be a just and wise prince, of great natural faculties, here it was that he saw, and could alone learn how the regal government of a free people was conducted, and that under a prince of the house of Brunswick.

Gentlemen, having stated thus much to you, I will now, for want of suitable expressions, (for mine are very feeble) borrow from another; I certainly have formed an opinion upon this subject precisely similar; to deliver it in plain words would exhaust the utmost of my powers, but I will borrow the words of a very able writer, who has most properly, for fear some ill impression should be made by this book on the weaker part of mankind in America, given an answer to this book of Mr. Paine. That distinguished gentleman, I have reason to believe, though not the chief magistrate in that country, is the second in the executive government of it; that is, he is second in the exercise of the regal part of the government of that country. He takes care to confute accurately what Mr. Paine says with respect to America; but, borrowing his *words*, I beg to be understood, that this is my *opinion* of the work before you, and which I humbly offer for your consideration and adoption.—He says, “his intention appears evidently to be, to convince
“ the people of Great Britain, that they have neither liberty
“ nor

“ nor a constitution ; that their only possible means to produce those blessings to themselves, is to topple down headlong their present government, and follow implicitly the example of the French.”

Gentlemen, the next passage, which I beg to be understood as mine, I wish I could express it as well myself, is this :—“ Mr. Paine, in reply, cuts the Gordian knot at once, declares the parliament of 1688 to have been downright usurpers, censures them for having unwisely sent to Holland for a King, denies the existence of a British Constitution, and invites the people of England to overturn their present government and to erect another upon the broad basis of national sovereignty and government by representation. As Mr. Paine has departed altogether from the principles of the revolution, and has torn up by the roots all reasoning from the British Constitution, by the denial of its existence, it becomes necessary to examine his work upon the grounds which he has chosen to assume. If we judge of the production from its apparent tendency, we may call it an address to the English nation, attempting to prove that they have a right to form a new Constitution ; that it is expedient for them immediately to exercise that right, and that in the formation of this Constitution they can do no better than to imitate the model set before them by the French national assembly. However immethodical his production is, I believe the whole of its argumentative part may be referred to these three points : If the subject were to affect only the British nation, we might leave them to reason and act for themselves ; but these are concerns equally important to all mankind ; and the citizens of America are called upon, from high authority, (he alludes to a gentleman in a high situation in that country, who has published an opinion of this book) to rally round the standard of this champion of revolutions. I shall, therefore now proceed to examine the reasons ;” and so he goes on.

Gentlemen, I would adopt, with your permission, a few more words from this publication :—“ When Mr. Paine invited the people of England to destroy their present government, and form another constitution, he should have given them sober reasoning, and not slipant witticisms.”—Whether that is or not the case what I have read to you to-day will enable you to judge. “ He should have explained to them

“ them the nature of the grievances by which they are op-
 “ pressed, and demonstrated the impossibility of reforming
 “ the government in its present organization. He should
 “ have pointed out some possible method for them to act, in
 “ their original character, without a total dissolution of ci-
 “ vil society among them; he should have proved what great
 “ advantages they would reap as a nation from such a revo-
 “ lution, without disguising the great dangers and formida-
 “ ble difficulties with which it must be attended.” So much
 for the passages themselves, and this interpretation, which
 I humbly submit to your consideration.

The next matter upon which I shall proceed is the evi-
 dence which I propose to adduce, and that evidence will go
 to shew, not only the fact of this man's being the writer of this
 book, by his own repeated admission, and by letters under
 his own hand, but will likewise go directly to shew what is
 his intent in such publication, which appears I think most
 clearly; and over and above that I shall produce to you a
 Letter, which this man was pleased to address to myself, in
 which Letter he avows himself in so many words the author,
 and I shall prove it to be his hand-writing; and further than
 that, there is matter in that letter, apparently shewing the
 intention with which that book was written, namely to vi-
 lify this constitution, and to injure this country irretriev-
 ably.

Two other letters I shall be under the necessity of reading
 to you, in which he has stated himself the author. The one
 is a letter to a person of the name of Jordan, in which he
 expresses himself in this manner:

“ February 16, 1792,” (that was the day on which the
 “ book was published) For your satisfaction and my own I
 “ send you the inclosed, though I do not apprehend there
 “ will be any occasion to use it: if in case there should,
 “ you will immediately send a line for me, under cover, to
 “ Mr. Johnson, St. Paul's Church Yard, who will for-
 “ ward it to me, upon which I shall come and answer per-
 “ sonally for the work; send also for Mr. Horne Tooke.

“ T. P.”

The letter inclosed was this; addressed to the same man,
 Jordan, the Bookseller.—“ Sir should any person, under the
 “ sanction of any kind of authority, enquire of you respect-
 “ ing the author and publisher of the Rights of Man, you
 “ will please to mention me as the author and publisher of
 “ that

“ that work, and shew to such person this letter. I will, as soon as I am acquainted with it, appear and answer for the work personally.”

Gentlemen, with respect to his letter written to me, it is in these terms.

Mr. ERSKINE. My Lord, the Attorney General states a letter in the hand writing of Mr. Paine, which establishes that he is the author. I desire to know whether he means to read a letter which may be the subject of a substantive and distinct prosecution; I do not mean to dispute the publication, or even to give him the trouble of proving the letters which he has just stated; whether the Attorney General will think it consistent with the situation in which he is placed, at this moment, to read a letter written at a time long subsequent to the publication, containing, as I understand (if I am mistaken in that I withdraw my objection) but containing distinct clear and unequivocal libellous matter, and which I, in my address to the jury, if I am not deceived in what I have heard, shall admit to be upon every principle of the English Law a libel. Therefore, if that should turn out to be the case, will your lordship suffer the mind of the jury to be entirely put aside from that matter which is the subject of the prosecution, and to go into matter which hereafter may be, and I cannot but suppose would be, if the defendant were within the reach of the law of this country, the subject of a distinct and independent prosecution.

LORD KENYON. If that letter goes a jot to prove that he is the author of this publication, I cannot reject that evidence; in prosecutions for high treason, where overt acts are laid, you may prove overt acts not laid to prove those that are laid; if it goes to prove him the author of the book, I am bound to admit it,

" MR. ATTORNEY GENERAL,

The Letter is thus :

" *Paris, 11th of November, 1st Year of
the Republic.*

" Sir, as there can be no personal resentment between two
strangers, I write this letter to you, as to a man against
whom I have no animosity.

" You have, as Attorney General, commenced a prosecution against me as the author of the Rights of Man.
Had not my duty, in consequence of my being elected a member of the National Convention of France, called me from England, I should have staid to have contested the injustice of that prosecution; not upon my own account, for I cared not about the prosecution, but to defend the principles I had advanced in the work.

" The duty I am now engaged in is of too much importance to permit me to trouble myself about your prosecution; when I have leisure, I shall have no objection to meet you on that ground; but, as I now stand, whether you go on with the prosecution or whether you do not, or whether you obtain a verdict, or not, is a matter of the most perfect indifference to me as an individual.
If you obtain one (which you are welcome to if you can get it), it cannot affect me, either in person, property, or reputation, otherwise than to increase the latter; and with respect to yourself, it is as consistent that you obtain a verdict against the Man in the Moon, as against me; neither do I see how you can continue the prosecution against me as you would have done against one of *your own people*, who had absented himself because he was prosecuted; what passed at Dover, proves that my departure from England was no secret.

" My necessary absence from your country affords the opportunity of knowing whether the prosecution was intended against Thomas Paine, or against the Rights of the People of England to investigate systems and principles of government; for as I cannot now be the object of the
" prose-

“prosecution, the going on with the prosecution will shew
 “that something else was the object, and that something else
 “can be no other than the People of England; for it is
 “against *their Rights*, and not against me, that a verdict or
 “sentence can operate, if it can operate at all. Be then so
 “candid as to tell the Jury (if you chuse to continue
 “the process) whom it is you are prosecuting, and on whom
 “it is that the verdict is to fall.”

Gentlemen, I certainly will comply with this request. I
 am prosecuting both him and his work; and if I succeed in
 this prosecution, he shall never return to this country other-
 wise than *in vinculis*, for I will outlaw him.

“But I have other reasons than those I have mentioned
 “for writing you this letter; and however you may chuse
 “to interpret them, they proceed from a good heart. The
 “time, Sir, is becoming too serious to play with Court pro-
 “secutions, and sport with national rights. The terrible
 “examples that have taken place here upon men, who less
 “than a year ago, thought themselves as secure as any pro-
 “secuting Judge, Jury, or Attorney General, can now do
 “in England, ought to have some weight with men in your
 “situation.”

Now gentlemen, I do not think that Mr. Paine judges
 very well of mankind—I do not think that it is a fair con-
 clusion of Mr. Paine, that men such as you and myself, who
 are quietly living in obedience to the laws of the land which
 they inhabit, exercising their several functions peaceably,
 and I hope with a moderate share of reputation: I do not
 conceive that men called upon to think, and in the habit of
 reflection, are the most likely men to be immediately thrown
 off the hinges by menaces and threats; and I doubt whether
 men exercising public functions, as you and I do in the face
 of our country, could have the courage to run away. All I
 can tell Mr. Paine is this—if any of his assassins are here in
 London, and there is some ground to suppose they may be,
 or the assassins of those with whom he is connected; if they
 are here, I tell them, that I do in my conscience think, that
 for a man to die of doing his duty, is just as good a thing as
 dying of a raging fever, or under the tortures of the stone,
 let him not think, that not to be an incendiary is to be a
 coward.

He says—“That the Government of England is as great,
 “if not the greatest perfection of fraud and corruption, that

“ ever took place since governments began, is what you cannot be a stranger to ; unless the constant habit of seeing it has blinded your sense.” Upon my word, gentlemen, I am stone blind, I am not sorry for it.—“ But though you may not chuse to see it, the people are seeing it very fast, and the progress is beyond what you may chuse to believe. Is it possible that you or I can believe, or that reason can make any other man believe, that the capacity of such a man as Mr. Guelph, or any of his profligate sons, is necessary to the government of a nation.”

Now, gentlemen, with respect to this passage, I have this to say, it is contemptuous, scandalous, false, cruel ;—Why, Gentlemen, is Mr. Paine, in addition to the political doctrines that he is teaching us in this country ; Is he to teach us the morality and religion, of **IMPLACABILITY** ? Is he to teach human creatures, whose moments of existence depend upon the permission of a Being, merciful, long suffering and of great goodness, that those youthful errors from which even royalty is not exempted are to be treasured up in a vindictive memory, and are to receive sentence of irremissible sin at HIS hands. Are they all to be confounded in these slanderous terms, shocking for British ears to hear, and I am sure distressing to their hearts ? He is a barbarian, who could use such profligate expressions uncalled for by any thing which could be the object of his letter addressed to me. If giving me pain was his object, he has that hellish gratification. Would this man destroy that great auxiliary of all human laws and constitutions—“ to judge of others as we would be judged ourselves.”—This is the bill of wrongs and insults of the christian religion. I presume it is considered as that bill of wrongs and insults, in the heart of that man who can have the barbarity to use those expressions and address them to me in a way by which I could not but receive them.

Gentlemen, there is not perhaps in the world a more beneficial analogy, nor a finer rule to judge by in public matters, than by assimilating them to what passes in domestic life.—A family is a small kingdom, a kingdom is a large family : suppose this to have happened in private life, judge of the good heart of this man, who thrusts into my hands, the grateful servant of a kind and beneficent master, and that too through the unavoidable trick of the common post slander upon his whole offspring. Lay your hands upon your hearts, and tell me what is *your* verdict with respect to his heart—*see it !*
Gentlemen,

Gentlemen, he has the audacity to say, "I speak to you as one man ought to speak to another." Does he speak to me of those August Personages as one man ought to speak to another? Had he spoken those words to me personally, I will not answer for it, whether I should not have forgot the duties of my office, and the dignity of my station, by being hurried into a violation of that peace, the breach of which I am compelled to punish in others. He says "And I know also, that I speak, what other people are beginning to think. That you cannot obtain a verdict (and if you do it will signify nothing) without *packing a Jury*, and that we *both* know that such tricks are practised, is what I have very good reason to believe."—*Mentiris impudentissime.*—Gentlemen, I know of no such practice; I know, indeed, that no such practice exists, nor can exist; I know the very contrary of this to be true; and I know too that this Letter, containing this dangerous falsehood, was destined for future publication; that I have no doubt of, and therefore I dwell thus long upon it.

"I have gone into coffee-houses, and places where I was unknown, on purpose to learn the currency of opinion." Whether the sense of this *nation* is to be had in some pot-houses and coffee-houses in this town of his own choosing, is a matter I leave to your judgment. "And I never yet saw any company of twelve men that condemned the book; but I have often found a greater number than twelve approving it; and this I think is a *fair way of collecting the natural currency of opinion*. Do not then, Sir, be the instrument of drawing twelve men into a situation that may be *injurious* to them afterwards;" injurious to them afterwards, those words speak for themselves. He proceeds thus.

"I do not speak this from policy," (what then?) "but from" (gentlemen, I will give you a hundred guesses) "BENEVOLENCE! but if you chuse to go on with the process, I make it my request that you would read this letter in Court, after which the Judge and the Jury may do as they please. As I do not consider myself the object of the prosecution, neither can I be affected by the issue one way or the other, I shall, though a foreigner in your country, subscribe as much money as any other man towards supporting the right of the nation against the prosecution; and it is for this purpose only that I shall do it."
—THOMAS PAINE."

So it is a subscription defence you bear.

"P. S. I intended, had I staid in England, to have published the information, with my remarks upon it,"—that would have been a decent thing—"before the trial came on; but as I am otherwise engaged, I reserve myself till the trial is over, when I shall reply fully to every thing you shall advance;" I hope in God he will not omit any one single word that I have uttered this day, or shall utter in my future address to you. This *conceited* menace I despise, as I do those of a nature more *cut-throat*.

Gentlemen, I do not think that I need to trouble you any further for the present: according as you shall be of opinion, that the necessarily mischievous tendency and intent of this book is that which I have taken the liberty (at more length than I am warranted perhaps) to state to you; according as you shall or shall not be of opinion, so necessarily will be your verdict. I have done my duty in bringing before a Jury an offender of this magnitude. Be the event what it may, I *have* done my duty; I am satisfied with having placed this great and flourishing community under the powerful shield of your protection.

EVIDENCE FOR THE CROWN.

Thomas Haynes sworn.

[Examined by *Mr. Bearcroft*.]

Q. Where did you get that book?

A. At Mr. Jordan's, in Fleet-street.

Q. When?

A. In the month of February, 1792.

(*It was put into Court.*)

Thomas Chapman Sworn.

[Examined by *Mr. Solicitor General*.]

Q. What business are you?

A. A Printer.

Q. Do you know the defendant, Thomas Paine?

A. I do.

Q. Upon what occasion did you become acquainted with him?

A. On the recommendation of Mr. Thomas Christie.

Q. For

Q. For what purpose was he introduced to you, or you to him?

A. I was introduced to Mr. Paine, by Mr. Christie, to print some book that he had.

Q. When was that?

A. I cannot directly say; it was in the year 1791.

Q. What book was that?

A. The First Part of the Rights of Man.

Q. Are you a publisher as well as a Printer?

A. I am not; merely a printer.

Q. Did you print the First Part of the Rights of Man?

A. I did.

Q. Who was the selling bookseller of that book?

A. Mr. Jordan, of Fleet-street.

Q. Had you any intercourse with Mr. Jordan and Mr. Paine concerning that book?

A. I had.

Q. What was that intercourse relative to?

A. To the manner of publishing the book.

Q. Did Jordan in fact publish that book?

A. He did.

Q. Had you any intercourse with Mr. Paine relative to the printing this book which I have in my hand. (*The Witness looks at it.*)

A. The first edition of this book I had; I don't think I printed this edition of it. I printed the first edition of it.

Q. Is that the First or Second Part?

A. The Second Part. I printed a part of the Second Part.

Mr. Erskine. Can you swear to that very book?

A. I cannot.

Mr. Solicitor General. You say you printed part of the Second Part of the Rights of Man?

A. Yes.

Q. What part did you print?

A. I printed as far as page 112, signature H.

Q. By signature H, you mean the letter H that is at the bottom of the page?

A. Yes.

Q. Upon whose employment did you print so much of the Second Part?

A. Mr. Paine's.

Q. Did you print the rest of the work from letter H to the conclusion of it?

A. I have

A. I have the copy in my possession as far as 146, I think: the manuscript copy.

Q. Did you print as far as 146, or stop at 112, signature H?

A. I stopped at 112; but my people had composed to page 146, which was not printed by me.

Q. Had you any conversation with Mr. Paine relative to the printing the remainder of the work, and if you had, what was that conversation?

A. When I had finished page 112, or sheet H, the proof sheet I, came into my hand; upon examining sheet I, there was a part, which, in my weak judgment, appeared of a dangerous tendency; I therefore immediately concluded in my mind not to proceed any farther in the work; accordingly I wrote a short note to Mr. Paine; this was about two o'clock in the afternoon, determining to send a letter, with the remainder of the copy. I felt a degree of reluctance from the circumstance of Mr. Paine's civilities that I had experienced as a gentleman and an employer; and I was fearful I should not have courage in the morning to deliver up the copy; but a circumstance occurred in the course of the day, which enabled me to do it with satisfaction to myself. I will relate the circumstance, if you will give me leave.

Q. Was Mr. Paine present when that circumstance happened?

A. He was: and as it may, in the eyes of the Court, exculpate me from a charge that Mr. Paine has thought proper to bring against me, I shall esteem it a favour of the Court if they will suffer me to mention every circumstance of that kind. — That very day at six o'clock Mr. Paine called upon me.

Q. Do you recollect the day?

A. I have a copy of that letter, which is dated the 17th of January, so that he must have called upon me on the 16th. Mr. Paine called upon me, and, as was rather unusual, at least to my knowledge, he was rather intoxicated by liquor. He had, I believe, that day, dined with Mr. Johnson, in Saint Paul's Church Yard. Being intoxicated he introduced a subject we have unfortunately differed on several times; the subject of religion, a favourite subject with him when intoxicated. I am sorry to mention these circumstances; but as it will justify me in the eyes of the public, as part of the Appendix has done me material injury in my profession. The subject of debate ran very high; he opposed every thing with great virulence, till at length he came to personal abuse,
very

very much so, both to myself and Mrs. Chapman. An observation was made by Mrs. Chapman, late in the evening, I believe near ten o'clock, at which Mr. Paine was particularly offended; rising up in a great passion, he said he had not been so personally affronted in the whole course of his life before.

Mr. Erskine. The information charges no offence like this.

Court. This is no offence, it appears only at present to be impertinent.

Mr. Erskine. I admit the publication, but I cannot admit that letter.

Mr. Solicitor General. Go on.

Chapman. Mr. Paine accordingly rose in a great passion, declaring that, as I was a dissenter, he had a very bad opinion of dissenters in general; he believed them all to be a pack of hypocrites, and therefore he must deal very cautiously with them, and begged, therefore, that in the morning, before I proceeded any further in his work, we should have a settlement. I felt a degree of pleasure in it, as it enabled me, with courage, next morning, to deliver up his copy, which I had before determined. I sent a letter next morning, inclosing the whole of his copy. He called upon me, and made many apologies for what he had said: he said that it was the effect of liquor, and hoped that I would pass it over, and proceed with the work; but being determined on the matter, I would not upon any account.

Q. And did you state to him the reason why you would not go on with the work?

A. I did. The letter will shew the reason.

Mr. Solicitor General. You have told us that Mr. Paine was your employer, so far as you did print. Did you ever make any offers to any body to buy the copy of the Second Part of the Rights of Man?

A. I did.

Q. To whom?

A. To Mr. Paine.

Q. When you made these offers, did he accept them or refuse them, or how did he treat the offers?

A. I made him three separate offers in the different stages of the work; the first, I believe, was a hundred guineas, the second five hundred, and the last was a thousand.

Q. To these offers, what did Mr. Paine answer?

A. To

A. To the best of my recollection, he answered, that as it was his intention to publish a small edition of his work, he wished to reserve it in his own hands.

Q. Have you seen this Mr. Paine write?

A. I have.

Q. Do you think you know his hand writing?

A. I think I do.

Q. Look at that letter, (dated Feb. 16, 1792,) is that his hand writing?

A. I think it is.

Q. Look at that (dated Feb. 16, 1792,) enclosed in the above.

A. I think that is his hand writing.

Q. Look particularly at this short note, (dated April 21, 1792,) is that his hand writing?

A. I believe it is.

Q. Here is an order directed to yourself, (dated Feb. 7, 1792,) look at that, is that his hand writing?

A. It is.

Q. Look at that letter (dated June 29, 1792) is that Mr. Paine's hand writing?

A. I believe it is.

Q. Look at that letter (the letter to the Attorney General, dated Paris, the 11th of Nov.) is that Mr. Paine's hand writing?

A. I cannot speak with any certainty.

Q. Do you believe that to be his hand writing?

A. I am inclined to think it is.

Thomas Chapman, cross-examined by Mr. Erskine.

Q. In the first place, how often have you seen Mr. Paine write?

A. I presume a dozen times.

Q. Did you ever look at him when he was writing, so as particularly to observe how he formed his characters?

A. Decency would not suffer me to look particularly.

Q. I take for granted, that you did not at that time suppose you should be called upon to prove his hand writing, and did not of course take any notice of it.—Did you, upon your oath, look at it with a view of saying, I will see how this man

man writes in order that I may know his writing again ?

A. I did not.

Q. Did you ever see any other writing than that you have described ?

A. No.

Q. Then you are only inclined to believe that last letter is his hand writing ?

A. Yes.

Mr. Solicitor General. Do you believe that that last letter is his hand writing ?

A. I think it is.

Mr. Erskine. Do you mean to say, that you have a firmer belief of it now than you had a moment ago ?

A. Yes.

Q. What has produced this change in your opinion ?

A. By the manner of his signature.

Q. Had not you looked at his signature before ?

A. It struck me that there was something particular in the manner of his writing his signature.

Q. Then you have a firmer belief now than you had a few minutes ago ?—

A. Yes.

The Letters read.

“ Mr. Chapman, please to deliver to Mr. Jordan the remaining sheets of the Rights of Man.

“ THOMAS PAINE.”

“ Feb. 7th, 92.

“ Feb. 16, 1792.

“ For your satisfaction and my own, I send you the enclosed, tho’ I do not apprehend there will be any occasion to use it; if in case there should, you will immediately send a line for me under cover, to Mr. Johnson, St. I
“ Paul’s

" Paul's Church-Yard, who will forward it to me, upon
 " which I shall come and answer personally for the work.—
 " Send also to Mr. Horne Tooke.

"T. P."

" Mr. Jordan,
 " No. 166, Fleet-street.

" Feb. 16, 1792.

" SIR,

" Should any person, under the sanction of any kind of
 " authority, enquire of you respecting the author and pub-
 " lisher of the Rights of Man, you will please to mention
 " me as the author and publisher of that work, and shew to
 " such person this letter. I will, as soon as I am made ac-
 " quainted with it, appear and answer for the work person-
 " ally.

" Your humble Servant,

" THOMAS PAINE."

" Mr. Jordan,
 " No. 166, Fleet-street.

April 21, 1792.

" Mr. JORDAN,

" Please to settle the account of the sale of the pamphlets
 " with Mr. Johnson, as I am at present engaged in getting
 " forward another small work for publication.

" Your's, &c.

" THOMAS PAINE."

" Mr. Jordan,
 " No. 166, Fleet-street.

London,

London, June 29, 1792.

" SIR,

" I have drawn on you two drafts for one hundred and fifty
" pounds each, one at seven days sight, the other at fourteen,
" payable to Mr. Johnson, or order, for monies which he
" has advanced on my account, and bills which are due,
" which drafts please to pay, and place the same to my ac-
" count.

" Yours, &c.

" THOMAS PAINE."

" Mr. Jordan,
" No. 106, Fleet-street.

“ *Paris, 11th of November,*
“ *1st year of the Republic.*

“ S I R,

“ As there can be no personal resentment between two
“ strangers, I write this letter to you, as to a man against
“ whom I have no animosity.

“ You have, as Attorney General, commenced a prosecution against me, as the Author of Rights of Man.
“ Had not my duty, in consequence of my being elected a
“ Member of the National Convention of France, called
“ me from England, I should have staid to have contested
“ the injustice of that prosecution; not upon my own account, for I cared not about the prosecution, but to have
“ defended the principles I had advanced in the work.

“ The duty I am now engaged in is of too much importance to permit me to trouble myself about your prosecution: when I have leisure, I have no objection to meet you on that ground; but as I now stand, whether you go on with the prosecution, or whether you do not, or whether you obtain a verdict, or not, is a matter of the most perfect indifference to me as an individual. If you obtain one (which you are welcome to, if you can get it) it cannot affect me either in person, property, or reputation, otherwise than to increase the latter: and with respect to yourself, it is as consistent that you obtain a verdict against the Man in the Moon as against me: neither do I see how you can continue the prosecution against me as you would have done against one of *your own people* who had absented himself because he was prosecuted: what passed at Dover proves that my departure from England was no secret.

“ My necessary absence from your country now, in consequence of my duty here, affords the opportunity of knowing whether the prosecution was intended against Thomas Paine, or against the Rights of the people of England to investigate systems and principles of government; for as I cannot now be the object of the prosecution, the going on with the prosecution will shew that something else was the object, and that something else can be no other than the people of England, for it is against *their rights*, and not against me, that a verdict or sentence can operate, if it can operate at all. Be then so candid as to tell the jury (if you chuse to continue the process) whom it is you are prosecuting, and on whom it is that the verdict is to fall.

“ But

" But I have other reasons than those I have mentioned
 " for writing you this letter ; and, however you may chuse
 " to interpret them, they proceed from a good heart. The
 " time, Sir, is becoming too serious to play with Court pro-
 " secutions, and sport with National Rights. The terrible
 " examples that have taken place here, upon men who less
 " than a year ago thought themselves as secure as any prose-
 " cuting Judge, Jury, or Attorney General, can now do
 " in England, ought to have some weight with men in your
 " situation. That the government of England is as great, if
 " not the greatest, perfection of fraud and corruption that
 " ever took place since governments began, is what you
 " cannot be a stranger to, unless the constant habit of seeing
 " it has blinded your senses ; but though you may not chuse
 " to see it, the people are seeing it very fast, and the pro-
 " gress is beyond what you may chuse to believe. Is it
 " possible that you, or I can believe, or that reason can make
 " any other man believe, that the capacity of such a man
 " as Mr. Guelph, or any of his profligate sons, is necessary
 " to the government of a nation ? I speak to you as one
 " man ought to speak to another ; and I know also, that I
 " speak what other people are beginning to think.

" That you cannot obtain a verdict (and if you do it will
 " signify nothing) without packing a jury, (and we both
 " know that such tricks are practised) is what I have very
 " good reason to believe. I have gone into coffee-houses,
 " and places where I was unknown, on purpose to learn the
 " currency of opinion, and I never yet saw any company
 " of twelve men that condemned the book ; but I have often
 " found a greater number than twelve approving it, and this
 " I think is a fair way of collecting the natural currency of
 " opinion. Do not then, Sir, be the instrument of drawing
 " twelve men into a situation that may be injurious to them
 " afterwards. I do not speak this from policy, but
 " from benevolence ; but if you chuse to go on with the
 " process, I make it my request to you that you will
 " read this letter in Court, after which the Judge and the
 " Jury may do as they please. As I do not consider myself
 " the object of the prosecution, neither can I be affected by
 " the issue, one way or the other, I shall though a foreigner
 " in your country, subscribe as much money as any other
 " man towards supporting the right of the Nation against
 " the

" the prosecution ; and it is for this purpose only that I shall
" do it.

" THOMAS PAINE."

" To Arch. Macdonald,
" Attorney General.

" As I have not time to copy letters, you will excuse the
" corrections.

" P. S. I intended, had I staid in England, to have
" published the information, with my remarks upon it, be-
" fore the trial came on ; but, as I am otherwise engaged, I
" reserve myself till the trial is over, when I shall reply fully
" to every thing you shall advance.

" T. P."

Andrew Milne sworn.

Examined by *Mr. Bearcroft.*

Q. I believe you lived with Mr. Jordan ?

A. Yes.

Q. When ?

A. About this time twelvemonth.

Q. Did you at any time see Mr. Paine at Mr. Jordan's ?

A. Yes.

Q. What was the business he came upon ?

A. It was respecting money principally.

Q. Did you ever go to the printers of that book while it
was in hand ?

A. The Second Part I did.

Q. Did you go by the directions of any-body, and by
whole directions ?

A. By Mr. Paine's directions.

Q. Had you occasion to see him more than once ?

A. Yes.

Q. Did you at any time get an order from him to Mr.
Crowder, the printer ?

A. Yes, once in particular.

Q. Was that before or after it was gone out of the hands
of Chapman ?

A. After.

Q. Did you ever see him at Jordan's shop, after it had
been published more than once ?

A. Yes.

Q. Tell us the circumstances.

A. Respecting

A. Respecting that note, in which he mentions Mr. Horne Tooke, I was in the shop at the time Mr. Paine came with Mr. Horne Tooke to Mr. Jordan's, in the evening; the conversation was in the parlour; I did not hear the conversation, but I knew of it afterwards.

Q. I don't ask you what you learned from any body else; did you learn it from Paine?

A. No.

Q. Did you see any money paid by Jordan to Mr. Paine on account of this book?

A. Yes.

John Purdue sworn.

[Examined by Mr. Wood.]

Q. Are you acquainted with Mr. Paine?

A. I was formerly.

Q. How long ago?

A. I have not seen him since he went to America.

Q. He was in the Excise?

A. He was in the Excise.

Q. Are you acquainted with his hand-writing?

A. Formerly I was.

Q. Look at these letters, and say, whether you believe them to be his hand-writing?

A. I believe they all are.

(The Extracts from the Libel read, as follows.)

Page 21.

" All hereditary government is in its nature tyranny. An
 " heritable Crown, or an heritable Throne, or by what
 " other fanciful name such things may be called, have no
 " other significant explanation than that mankind are herita-
 " ble property. To inherit a government, is to inherit the
 " people, as if they were flocks and herds!

Page

“ This convention met in Philadelphia in May 1787, of
 “ which General Washington was elected president. He
 “ was not at that time connected with any of the State-go-
 “ vernments, or with Congress. He delivered up his
 “ commission when the war ended, and since then had lived
 “ a private citizen.

“ The convention went deeply into all the subjects ; and
 “ having, after a variety of debate and investigation, agreed
 “ among themselves upon the several parts of a federal con-
 “ stitution, the next question was, the manner of giving it
 “ authority and practice.

“ For this purpose, they did not, like a cabal of courtiers,
 “ send for a Dutch Stadtholder, or a German Elector ; but
 “ they referred the whole matter to the sense and interest of
 “ the country.”

“ The history of the Edwards and Henries, and up to
 “ the commencement of the Stuarts, exhibits as many in-
 “ stances of tyranny as could be acted within the limits to
 “ which the nation had restricted it. The Stuarts endea-
 “ voured to pass those limits, and their fate is well known.
 “ In all those instances we see nothing of a constitution, but
 “ only restrictions on assumed power.

“ After this, another William, descended from the same
 “ stock, and claiming from the same origin, gained posses-
 “ sion ; and of the two evils, *James* and *William*, the nation
 “ preferred what it thought the least ; since, from circum-
 “ stances it must take one. The Act, called the Bill of
 “ Rights, comes here into view. What is it but a bargain,
 “ which the parts of the Government made with each other
 “ to divide powers, profits, and privileges ? You shall
 “ have so much, and I will have the rest ; and with respect
 “ to the nation, it said, for *your share*, you *shall have the*
 “ *right of petitioning*. This being the case, the Bill of
 “ Rights is more properly a bill of wrongs, and of insult.

“ As

“ As to what is called the Convention Parliament, it was a
 “ thing that made itself, and then made the authority by
 “ which it acted. A few persons got together, and called
 “ themselves by that name. Several of them had never
 “ been elected, and none of them for the purpose.

“ From the time of William, a species of government
 “ arose, issuing out of this coalition Bill of Rights; and
 “ more so, since the corruption introduced at the Hanover
 “ succession, by the agency of Walpole; that can be de-
 “ scribed by no other name than a despotic legislation.—

“ Though the parts may embarrass each other, the whole
 “ has no bounds; and the only right it acknowledges out
 “ of itself is the right of petitioning. Where then is the
 “ Constitution either that gives or that restrains power?

“ It is not because a part of the government is elective,
 “ that makes it less a despotism, if the persons so elected,
 “ possess afterwards, as a parliament, unlimited pow-
 “ ers. Election, in this case, becomes separated from
 “ representation, and the candidates are candidates for des-
 “ potism.”

Page 56.

“ The attention of the Government of England, (for I
 “ rather chuse to call it by this name, than the English
 “ Government) appears, since its political connexion with
 “ Germany, to have been so completely engrossed and ab-
 “ sorbed by foreign affairs, and the means of raising taxes,
 “ that it seems to exist for no other purposes. Domestic
 “ concerns are neglected; and with respect to regular law,
 “ there is scarcely such a thing.”

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Page

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Page 63. Note.

“ With respect to the two Houses, of which the English
 “ Parliament is composed, they appear to be effectually in-
 “ fluenced into one, and, as a legislature, to have no tem-
 “ per of its own. The Minister, whoever he at any time
 “ may be, touches it as with an opium wand, and it sleeps
 “ obedience.

“ But if we look at the distinct abilities of the two Houses,
 “ the difference will appear so great, as to shew the incon-
 “ sistency of placing power where there can be no cer-
 “ tainty of the judgment to use it. Wretched as the state
 “ of representation is in England, it is manhood compared
 “ with what is called the House of Lords; and so little is
 “ this nicknamed House regarded, that the people scarcely
 “ enquire at any time what it is doing. It appears also to
 “ be most under influence, and furthest removed from the
 “ general interest of the nation.”

Pages 107-108.

“ Having thus glanced at some of the defects of the two
 “ Houses of Parliament, I proceed to what is called the
 “ Crown, upon which I shall be very concise.

“ It signifies a nominal office of a million sterling a year,
 “ the business of which consists in receiving the money.—
 “ Whether the person be wise or foolish, sane or insane, a
 “ native or a foreigner, matters not. Every ministry acts
 “ upon the same idea that Mr. Burke writes, namely, that
 “ the

“ the people must be hoodwinked, and held in superstitious
 “ ignorance by some bugbear or other ; and what is called
 “ the Crown answers this purpose, and therefore it answers
 “ all the purposes to be expected from it. This is more
 “ than can be said of the other two branches. The hazard
 “ to which this office is exposed in all countries, is not from
 “ any thing that can happen to the man, but from what
 “ may happen to the nation—the danger of its coming to
 “ its senses.”

Page 116. Note.

“ I happened to be in England at the celebration of the
 “ centenary of the revolution of 1688. The characters of
 “ William and Mary have always appeared to me detestable ;
 “ the one seeking to destroy his uncle, and the other her fa-
 “ ther, to get possession of power themselves ; yet, as the
 “ nation was disposed to think something of that event, I
 “ felt hurt at seeing it ascribe the whole reputation of it to a
 “ man who had undertaken it as a job, and who, besides
 “ what he otherwise got, charged 600,000l. for the ex-
 “ pence of the little fleet that brought him from Holland.
 “ George the First acted the same close-fisted part as William
 “ had done, and bought the Duchy of Bremin with the
 “ money he got from England, 250,000l. over and above
 “ his pay as King ; and having thus purchased it at the ex-
 “ pence of England, added it to his Hanoverian dominions
 “ for his own private profit. In fact, every nation that
 “ does not govern itself, is governed as a job. England
 “ has been the prey of jobs ever since the revolu-
 “ tion.”

Page 161.

“ The fraud, hypocrisy, and imposition of govern-
 “ ments, are now beginning to be too well understood to
 “ promise

“ promise them any longer career. The farce of monarchy
 “ and aristocracy, in all countries, is following that of chivalry, and Mr. Burke is dressing for the funeral. Let it
 “ then pass quietly to the tomb of all other follies, and the
 “ mourners be comforted.

“ The time is not very distant when England will laugh at
 “ itself for sending to Holland, Hanover, Zell, or Brunswick for men, at the expence of a million a year, who understood neither her laws, her language, nor her interest, and whose capacities would scarcely have fitted them for the office of parish constable. If government could be trusted to such hands, it must be some easy and simple thing indeed, and materials fit for all the purposes may be found in every town and village in England.”

The end of the Evidence for the Crown.

The Honorable Thomas Erskine.

Gentlemen of the Jury,

THE Attorney-General, in that part of his address which arose from a letter, supposed to have been written to him from France, exhibited signs of strong sensibility and emotion. I do not, I am sure, charge him with acting a part to seduce you; on the contrary, I am persuaded from my own feelings, and from my acquaintance with my friend from our childhood upwards, that he expressed himself as he felt. But, gentlemen, if he felt those painful embarrassments, think what mine must be: he can only feel for the august Character whom he represents in this place, as a subject for his Sovereign, too far removed by custom, and by law, from the intercourses which generate affections, to produce any other sentiments than those that flow from a relation common to us all. But it will be remembered that I stand in the same relation * towards another Great Person, more deeply implicated by this supposed letter; who, not restrained from the cultivation of personal attachment by those qualifications which must always secure them, has exalted my duty of a subject to a Prince, into a warm and honest affection between man and man. Thus circumstanced, I certainly should have been glad to have had an earlier opportunity of knowing correctly the contents of this letter, and whether (which I positively deny) it proceeded from the defendant. Coming thus suddenly upon us; I see but too plainly the impression it has made upon you who are to try the cause, and I feel its weight upon myself, who am to conduct it; but this shall neither detach me from my duty,

* Mr. Erskine is Attorney-General to the Prince of Wales.

nor,

nor, added to all the other difficulties that thicken around me, enervate me (if I can help it) in the discharge of it.

Gentlemen, if the Attorney General is well founded in the commentaries he has made to you upon this book which he prosecutes; if he is warranted by the law of England, in repressing its circulation through these realms, from the illegal and dangerous matters contained in it; if that suppression be, as he avows it, and as in common sense it must be, the sole object of the prosecution, the public has great reason to lament that this letter should have been at all brought into the service of the cause: it is no part of the charge upon the record; it had no existence for months after the work was composed and published; it was not even written, if written at all, till after he had been at Dover, in a manner insultingly expelled from the country by the influence of government, and had become the subject of another country. It cannot, therefore, by any fair inference, even decypher the mind of the author when he composed his work; still less can it affect the construction of the language in which the work itself is written. The introduction of this letter at all is, therefore, not only a departure from the charge, but a sort of dereliction of the object of the prosecution, which is to condemn the book: for if the condemnation of the author is to be obtained, not by the work itself, but by collateral matter not even existing when it was written, nor known to its various publishers throughout the kingdom, how can a verdict upon such grounds condemn the work, or criminate other publishers, strangers to the collateral matter on which the conviction may be obtained? I maintain, therefore, that, upon every principle of sound policy, as it affects the interests of the crown, and upon every rule of justice, as it affects the author of the Rights of Man, the letter should be wholly dismissed from your consideration.

Gentlemen, the Attorney General has thought it necessary to inform you, that a rumour had been spread, and had reached his ears, that he only carried on the prosecution as a public prosecutor, but without the concurrence of his own private judgment; and therefore to add the just weight of his own character to his public duty, and to repel what he thinks a calumny, he tells you that he should have deserved to have been driven from society, if he had not arraigned the work and the author before you.

Here

Here too we stand in situations very different. I have no doubt of the existence of such a rumour, and of its having reached his ears, because he says so; but for the narrow circle in which any rumour, personally implicating my learned friend's character, has extended, I might appeal to the multitudes who surround us, and ask, which of all them, except the few connected in office with the crown, ever heard of its existence. But with regard to myself, every man who hears me at this moment, nay, the whole People of England, have been witnesses to the calumnious clamour that, by every art, has been raised and kept up against me: In every place, where business or pleasure collect the public together, day after day my name and character have been the topics of injurious reflection. And for what—only for not having shrunk from the discharge of a duty which no personal advantage recommended, and which a thousand difficulties repelled. But, gentlemen, I have no complaint to make, either against the printers of these libels, nor even against their authors; the greater part of them, hurried perhaps away by honest prejudices, may have believed they were serving their country by rendering me the object of its suspicion and contempt; and if there have been amongst them others who have mixed in it from personal malice and unkindness, I thank God I can forgive them also.—Little indeed did they know me, who thought that such proceedings would influence my conduct: I will for ever, at all hazards, assert the dignity, independence, and integrity of the ENGLISH BAR; without which, impartial justice, the most valuable part of the English constitution, can have no existence. For, from the moment that any advocate can be permitted to say, that he will or will not stand between the crown, and a subject arraigned in the court where he daily sits to practise, from that moment the liberties of England are at an end. If the advocate refuses to defend, from what he may think of the charge or of the defence, he assumes the character of the judge; nay, he assumes it before the hour of judgment; and, in proportion to his rank and reputation, puts the heavy influence of, perhaps, a mistaken opinion into the scale against the accused, in whose favour the benevolent principle of English law makes all presumptions, and which commands the very Judge to be his counsel.

Gentlemen, it is now my duty to address myself regularly and without digression to the defence. And the first thing which presents itself in the discussion of a judicial subject,

and

and indeed of every other, is to state distinctly, and with precision, what the question is, and (where prejudice and misrepresentation have been exerted), to distinguish it accurately from what it is not. The question then is NOT whether the constitution of our fathers, under which we live—under which I present myself before you, and under which alone you have any jurisdiction to hear me,—be or be not preferable to the constitution of America or France, or any other human constitution. For upon what principle can a court, constituted by the authority of any government, and administering a positive system of law under it, pronounce a decision against the constitution which creates its authority; or the rule of action which its jurisdiction is to enforce? The common sense of the most uninformed person must revolt at such an absurd supposition.

I have no difficulty, therefore, in admitting, that if by accident some or all of you were alienated in opinion and affection from the forms and principles of the English government, and were impressed with the value of that unmixed representative constitution which this work recommends and inculcates, you could not, on that account, acquit the defendant. Nay, to speak out plainly, I freely admit, that even if you were avowed enemies to monarchy, and devoted to republicanism, you would be nevertheless bound by your oaths, as a jury sworn to administer English justice, to convict the author of the Rights of Man, if it were brought home to your consciences, that he had exceeded those widely extended bounds which the ancient wisdom and liberal policy of the English constitution have allotted to the range of a free press. I freely concede this, because you have no jurisdiction to judge either the author or the work, by any rule but by the English law, which is the source of your authority. But having made this large concession, it follows, by a consequence so inevitable as to be invulnerable to all argument or artifice, that if, on the other hand, you should be impressed (which I know you to be) not only with a dutiful regard, but with an enthusiasm, for the whole form and substance of your own government; and though you should think that this work, in its circulation amongst classes of men unequal to political researches, may tend to alienate opinion, still you cannot, upon these grounds, without a similar breach of duty, convict the defendant of a libel; unless he has clearly stepped beyond that extended range of communication which the same ancient wisdom and li-

beral

beral policy of the British constitution has allotted for the liberty of the press.

Gentlemen, I admit, with the Attorney General, that in every case where a court has to estimate the quality of a writing, the mind and intention of the writer must be taken into the account; the bona, or mala fides, as lawyers express it, must be examined: for a writing may undoubtedly proceed from a motive, and be directed to a purpose, not to be decyphered by the mere construction of the thing written. But wherever a writing is arraigned as seditious or slanderous, not upon its ordinary construction in language, nor from the necessary consequences of its publication, under any circumstances and at all times, but that the criminality springs from some extrinsic matter, not visible upon the page itself, nor universally operative, but capable only of being connected with it by evidence, so as to demonstrate the effect of the publication, and the design of the publisher; such a writing, not libellous *PER SE*, cannot be arraigned as the author's work is arraigned upon the record before the court. I maintain, without the hazard of contradiction, that the law of England positively requires, for the security of the subject, that every charge of a libel complicated with extrinsic facts and circumstances, *dehors the writing*, must appear literally upon the record, that the defendant may know what crime he is called upon to answer, and how to stand upon his defence. What crime is that the defendant comes to answer for to day? what is the notice that I, who am his counsel, have from this parchment of the crime alleged against him? I come to defend his having written this book. The record states nothing else: the charge of sedition in the introduction is notoriously paper and pack-thread, and the innuendos cannot enlarge the sense, or natural construction of the text. The record does not state any one extrinsic fact or circumstance, to render the work criminal, at one time more than another; it states no peculiarity of time, or season, or intention, not proveable from the writing itself which is the naked charge upon record. There is nothing therefore which, upon any principle of English law, gives you any jurisdiction beyond the construction of the *work itself*; and you cannot be justified in finding it criminal because published at this time, unless it would have been a criminal publication under any circumstances, or at any other time.

The law of England then, both in its forms and substance, being the only rule by which the author or the work can be justified or condemned, and the charge upon the record being the naked charge of a libel, the cause resolves itself into a question of the deepest importance to us all, **THE NATURE AND EXTENT OF THE LIBERTY OF THE ENGLISH PRESS.**

But before I enter upon it, I wish to fulfil a duty to the defendant, which, if I do not deceive myself, is at this moment peculiarly necessary to his impartial trial.—If an advocate entertains sentiments injurious to the defence he is engaged in, he is not only justified, but bound in duty, to conceal them; so, on the other hand, if his own genuine sentiments, or any thing connected with his character or situation, can add strength to his professional assistance, he is bound to throw them into the scale: in addressing myself, therefore, to gentlemen not only zealous for the honour of English government, but visibly indignant at any attack upon its principles, and who would, perhaps be impatient of arguments from a suspected quarter, I give my client the benefit of declaring, that I am, and ever have been, attached to the genuine principles of the British government; and that, however the court or you may reject the application, I defend him upon principles not only consistent with its permanence and security, but, without the establishment of which, it never could have had an existence.

The proposition which I mean to maintain as the basis of the liberty of the press, and without which it is an empty sound, is this:

That every man, not intending to mislead and to confound, but seeking to enlighten others with what his own reason and conscience, however erroneously, dictate to him as truth, may address himself to the universal reason of a whole nation, either upon the subject of governments in general, or upon that of our own particular country: that he may analyse the principles of its constitution, point out its errors and defects, examine and publish its corruptions, warn his fellow-citizens against their ruinous consequences, and exert his whole faculties in pointing out the most advantageous changes in establishments which he considers to be radically defective, or sliding from their object by abuse.—All this every subject of this country has a right to do, if he contemplates only what he thinks its happiness, and but seeks to change the public mind by the conviction which flows from reasonings dictated by conscience.

If,

If, indeed, he writes what he does not think; if contemplating the misery of others, he wickedly condemns what his own understanding approves; or, even admitting his real disgust against the government or its corruptions, if he calumniates *living magistrates*, or holds out to individuals, that they have a right to run before the public mind in their conduct; that they may oppose by contumacy or force what private reason only disapproves; that they may disobey the law, because their judgment condemns it; or resist the public will, because they honestly wish to change it: he is then a criminal upon every principle of rational policy, as well as upon the immemorial precedents of English justice; because such a person seeks to disunite individuals from their duty to the whole, and excites to overt acts of misconduct in a part of the community, instead of endeavouring to change, by the impulse of reason, that universal assent which, in this and in every country, constitutes the law for all.

I have therefore no difficulty in admitting that, if, upon an attentive perusal of this work, it shall be found that the defendant has promulgated any doctrines which tend to withdraw individuals from their subjection to the law by which the whole nation consents to be governed; nay, if the direct contrary shall not be found to be studiously inculcated—if his book should be found to have warranted or excited that unfortunate criminal who appeared here yesterday to endeavour to relieve himself from imprisonment, by the destruction of a prison, while the law of imprisonment remained, or dictated to him the language of defiance which ran through his whole defence—if throughout the whole work there shall be found any syllable or letter, which strikes at the security of property, or which hints that any thing less than the whole nation can constitute the law, or that the law, be what it may, is not the inexorable rule of action for every individual, I willingly yield him up to the justice of the court.

Gentlemen, I say, in the name of Thomas Paine, and in his words as author of the Rights of Man, as written in the very volume that is charged with seeking the destruction of property,

“ The end of all political associations is, The preservation of the rights of man, which rights are liberty, property, and security ; that the nation is the source of all sovereignty derived from it : the right of property being secured and inviolable, no one ought to be deprived of it, except in cases of evident public necessity, legally ascertained, and on condition of a previous just indemnity.”

These are undoubtedly the rights of man—the rights for which all governments are established—and the only rights Mr. Paine contends for ; but which he thinks (no matter whether right or wrong) are better to be secured by a republican constitution than by the forms of the English government. He instructs me to admit, that, when government is once constituted, no individuals, without rebellion, can withdraw their obedience from it—that all attempts to excite them to it are highly criminal, for the most obvious reasons of policy and justice—that nothing short of the will of a whole people can change or affect the rule by which a nation is to be governed—and that no private opinion, however honestly inimical to the forms or substance of the law, can justify resistance to its authority, while it remains in force.—

The author of the Rights of Man not only admits the truth of all this doctrine, but he consents to be convicted, and I also consent for him, unless his work shall be found studiously and painfully to inculcate these great principles of government which it is charged to have been written to destroy.—

Let me not, therefore, be suspected to be contending, that it is lawful to write a book pointing out defects in the English government, and exciting individuals to destroy its sanctions, and to refuse obedience. But, on the other hand, I do contend, that it is lawful to address the English nation on those momentous subjects, for had it not been for this unalienable right (thanks be to God and our fathers for establishing it), how should we have had this constitution which we so loudly boast of ? If, in the march of the human mind, no man could have gone before the establishments of the time he lived in, how could our establishment, by reiterated changes, have become what it is ? If no man could have awakened the public mind to errors and abuses in our government, how could it have passed on from stage to stage,

stage, through reformation and revolution, so as to have arrived from barbarism to such a pitch of happiness and perfection that the Attorney General considers it as a profanation to touch it any further, or to look for any future amendment?

In this manner power has reasoned in every age—government, in *its own estimation*, has been at all times a system of perfection; but a free press has examined and detected its errors, and the people have happily reformed them: this freedom has alone made our government what it is, and alone can preserve it; and therefore, under the banners of that freedom, to-day I stand up to defend Thomas Paine.—But how, alas! shall this task be accomplished? How may I expect from you what human nature has not made man for the performance of? How am I to address your reasons, or ask them to pause, amidst the torrent of prejudice which has hurried away the public mind on the subject you are to judge?

Was any Englishman ever so brought as a criminal before an English court of justice?—If I were to ask you, gentlemen of the jury, what is the choicest fruit that grows upon the tree of English liberty, you would answer, **SECURITY UNDER THE LAW**. If I were to ask the whole people of England, the return they looked for at the hands of government, for the burthens under which they bend to support it, I shall still be answered, **SECURITY UNDER THE LAW**; or, in other words, an impartial administration of justice. So sacred, therefore, has the freedom of trial been ever held in England; so anxiously does Justice guard against every possible bias in her path, that if the public mind has been locally agitated upon any subject in judgment, the forum is either changed, or the trial postponed. The circulation of any paper that brings, or which can be supposed to bring, prejudice, or even well-founded knowledge, within the reach of a British tribunal, on the spur of an occasion, is not only highly criminal, but defeats itself, by leading to put off the trial which its object was to pervert. On this principle, his lordship will permit me to remind him, that on the trial of the Dean of St. Asaph for a libel, or rather when he was brought to trial, the circulation of books by a society favourable to his defence, was held by the noble lord, as Chief Justice of Chester, to be a reason for not trying the cause; although

although they contained no matter relative to the Dean, nor to the object of his trial ; being only extracts from ancient authors of high reputation, on the general rights of juries to consider the innocence as well as the guilt of the accused, yet still, as the recollection of these rights were pressed forward with a view to affect the proceedings, to guard the principle the proceedings were postponed.

Is the defendant then to be the only exception to these admirable provisions ?—Is the English law to judge him, stripped of the armour with which its universal justice encircles all others ?—Shall we, in the very act of judging him for detracting from the English government, furnish him with ample matter for just reprobation, instead of detraction ? Has not this cause been prejudged through a thousand channels ? Has not the work before you been daily publicly reviled, and his person held up to derision and reproach ? Has not the public mind been excited, by crying down the very phrase and idea of the Rights of Man ? Nay, have not associations of gentlemen, I speak it with regret, because I am persuaded, from what I know of some of them, that they, amongst them at least, thought they were serving the public ; yet have they not, in utter contempt and ignorance of that constitution of which they declare themselves to be the guardians, published the grossest attacks upon the defendant ? Have they not, even while the cause has been standing here in the paper for immediate trial, published a direct protest against the very work now before you ; advertising in the same paper, though under the general description of seditious papers, a reward on the conviction of any person who should dare to sell the book itself, to which their own publication was an answer ?—The Attorney-General has spoken of a forced circulation of this work ; but how have these prejudging papers been circulated ? we all know how : they have been thrown into our carriages in every street ; they have met us at every turnpike ; and they lie in the areas of all our houses. To complete the triumph of prejudice, that high tribunal, of which I have the honour to be a member, (my learned friends know what I say to be true) has been drawn into this vortex of slander ; and some of its members, for I do not speak of the house itself, have thrown the weight of their stations into the same scale.

By

By all means I maintain that this cause has been prejudged.

It may be said, that I have made no motion to put off the trial for these causes, and that courts of themselves take no cognizance of what passes elsewhere, without facts laid before them. Gentlemen, I know that I should have had equal justice from that quarter, if I had brought myself within the rule. But when should I have been better, in the present aspect of things? And therefore I only remind you of all these hardships, that you may recollect that your judgment is to proceed upon that alone which meets you here, upon the evidence in the cause, and not upon suggestions destructive of every principle of justice.

Having disposed of these foreign prejudices, I hope you will as little regard some arguments that have been offered to you in court. The letter which has been so repeatedly pressed upon you, you ought to dismiss even from your recollection; I have already put it out of the question, as having been written long subsequent to the book, and as being a libel on the king, which no part of the information charges, and which may hereafter be prosecuted as a distinct offence. I consider that letter besides, and indeed have always heard it treated, as a forgery, contrived to injure the merits of the cause, and to embarrass me personally in its defence. I have a right so to consider it, because it is unsupported by any thing similar at an earlier period. The defendant's whole deportment, previous to the publication, has been wholly unexceptionable: he properly desired to be given up as the author of the book, if any enquiry should take place concerning it; and he is not affected in evidence, directly or indirectly, with any illegal or suspicious conduct; nor even with having uttered an indiscreet or taunting expression, nor with any one matter or thing, inconsistent with the duty of the best subject in England. His opinions indeed were adverse to our system; but I maintain that OPINION is free, and that CONDUCT alone is amenable to the law.

You are next desired to judge of the author's mind and intention, by the modes and extent of the circulation of his work. The first part of the Rights of Man, Mr. Attorney-General tells you, he did not prosecute, although it was in circulation through the country for a year and a half together, because it seems it circulated only amongst what he

files the judicious part of the public, who possessed in their capacities and experience an antidote to the poison ; but that with regard to the second part now before you, its circulation has been forced into every corner of society ; had been printed and reprinted for cheapness even upon whited brown paper, and had crept into the very nurseries of children, as a wrapper for their sweetmeats.

In answer to this statement, which after all stands only upon Mr. Attorney General's own assertion, unsupported by any kind of proof (no witness having proved the author's personal interference with the sale), I still maintain, that if he had the most anxiously promoted it, the question would remain exactly the same: the question would still be, whether at the time when Paine composed his work, and promoted the most extensive purchase of it, he believed or disbelieved what he had written, and whether he contemplated the happiness or misery of the English nation, to which it is addressed ; and whichever of these intentions may be evidenced to your judgments upon reading the book itself, I confess I am utterly at a loss to comprehend how a writer can be supposed to mean something different from what he has written, by an anxiety (common I believe to all authors) that his work should be generally read.

Remember, I am not asking your opinions of the *doctrines themselves*, you have given them already pretty visibly since I began to address you ; but I shall appeal not only to you, but to those who, without our leave, will hereafter judge without appeal of all that we are doing to day ; Whether, upon the matter which I hasten to lay before you, you can refuse in justice to pronounce, that from his education—from the accidents and habits of his life—from the time and occasion of the publication—from the circumstances attending it—and from every line and letter of the work itself, and all his other writings, before and *even since* his conscience and understanding (*no matter whether erroneously or not*) were deeply and solemnly impressed with the matters contained in this book, that he addressed it to the reason of the nation at large, and not to the passions of individuals, and that in the issue of its influence, he contemplated only what appeared to *him* (*though it may not to us*) to be the interest and happiness of England, and of the whole human race. In drawing the one or the other of these conclusions, the book stands first in order, and it shall now speak for itself.

Gentlemen,

Gentlemen, the whole of it is in evidence before you ; the particular parts arraigned having only been read by my consent, upon the presumption that on retiring from the court, you would carefully compare them with the context and all the parts with the whole viewed together. You cannot indeed do justice without it. The most common letter, even in the ordinary course of business, cannot be read in a cause to prove an obligation for twenty shillings without the whole being read, that the writer's meaning may be seen without deception. But in a criminal charge of only four pages and a half, out of a work containing nearly two hundred, you cannot, with even the appearance of common justice, pronounce a judgment without the most deliberate and cautious comparison. I observe that the noble and learned judge confirms me in this observation. But if any given part of a work be legally explanatory of every other part of it, the preface, a fortiori, is the most material ; because the preface is the author's own key to his writing : it is there that he takes the reader by the hand, and introduces him to his subject : it is there that the spirit and intention of the whole is laid before him by way of prologue. A preface is meant by the author as a clue to ignorant or careless readers : the author says by it, to every man who chooses to begin where he ought, look at my plan—attend to my distinctions—mark the purpose and limitations of the matter I lay before you.

Let then the calumniators of Thomas Paine now attend to his preface, where, to leave no excuse for ignorance or misrepresentation, he expresses himself thus :

“ I have differed from some professional gentlemen on the subject of prosecutions, and I since find they are falling into my opinion, which I will here state as fully, but as concisely as I can.

“ I will first put a case with respect to any law, and then compare it with a government, or with what in England is, or has been, called a constitution.

“ It would be an act of despotism, or what in England is called arbitrary power, to make a law to prohibit investigating the principles, good or bad, on which such a law, or any other, is founded.

“ If a law be bad, it is one thing to oppose the practice of it, but it is quite a different thing to expose its errors, to reason on its defects, and to shew cause why

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" it should be repealed, or why another ought to be substituted in its place. I have always held it an opinion (making it also my practice) that it is better to obey a bad law, making use at the same time of every argument to shew its errors and procure its repeal, than forcibly to violate it ; because the precedent of breaking a bad law might weaken the force, and lead to a discretionary violation, of those which are good.

" The case is the same with principles and forms of government, or to what are called constitutions and the parts of which they are composed.

" It is for the good of nations, and not for the emolument or aggrandizement of particular individuals, that government ought to be established, and that mankind are at the expence of supporting it. The defects of every government and constitution, both as to principle and form, must, on a parity of reasoning, be as open to discussion as the defects of a law, and it is a duty which every man owes to society to point them out. When those defects, and the means of remedying them are generally seen by a nation, that nation will reform its government or its constitution in the one case, as the government repealed or reformed the law in the other."

Gentlemen, you must undoubtedly wish to deal with every man who comes before you in judgment, as you would be dealt by yourselves ; and surely you will not lay it down to day as a law to be binding hereafter even upon yourselves, that if you should publish any opinion concerning the existing abuses in your country's government, and point out to the whole public the means of amendment, you are to be acquitted or convicted as any twelve men may happen to agree with you in your opinions. Yet this is precisely what you are asked to do to another : it is precisely the case before you. Mr. Paine expressly says, I obey a law until it is repealed ; obedience is not only my principle but my practice, since my disobedience of a law from thinking it bad, might apply to justify another man in the disobedience of a good one ; and thus individuals would give the rule for themselves, and not society for all.

Gentlemen, you will presently see that the same principle pervades the rest of the work ; and I am the more anxious to call your attention to it, however repetition may tire you, because

because it unfolds the whole principle of my argument: for, if you find a sentence in the whole book that invests any individual, or any number of individuals, or any community short of the whole nation, with a power of changing any part of the law or constitution, I abandon the cause—YES, I freely abandon it, because I will not affront the majesty of a court of justice by maintaining propositions which, even upon the surface of them, are false. Mr. Paine, page 162—168, goes on thus:

“ When a nation changes its opinion and habits of thinking, it is no longer to be governed as before; but it would not only be wrong, but bad policy, to attempt by force what ought to be accomplished by reason. Rebellion consists in forcibly opposing the general will of a nation, whether by a party or by a government.—There ought, therefore, to be, in every nation, a method of occasionally ascertaining the state of public opinion with respect to government.

“ There is, therefore, no power but the voluntary will of the people that has a right to act in any matter respecting a general reform; and, by the same right that two persons can confer on such a subject, a thousand may. The object in all such preliminary proceedings is, to find out what the general sense of a nation is, and to be governed by it. If it prefer a bad or defective government to a reform, or choose to pay ten times more taxes than there is occasion for, it has a right so to do; and, so long as the majority do not impose conditions on the minority different to what they impose on themselves, though there may be much error, there is no injustice; neither will the error continue long. Reason and discussion will soon bring things right, however wrong they may begin. By such a process no tumult is to be apprehended. The poor, in all countries, are naturally both peaceable and grateful in all reforms in which their interest and happiness are included. It is only by neglecting and rejecting them that they become tumultuous.”

Gentlemen, these are the sentiments of the author of the Rights of Man; and, whatever his opinions may be of the

defects in our government, it never can change our sentiments concerning it, if our sentiments be just ; and a writing can never be seditious in the sense of the English law, which states that the government leans on the universal will for its support.

Gentlemen, this universal will is the best and securest title which his Majesty and his family have to the throne of these kingdoms ; and in proportion to the wisdom of our institutions, the title must in common sense become the stronger : so little idea, indeed, have I of any other, that in my place in Parliament, not a week ago, I considered it as the best way of expressing my attachment to the constitution, as established at the revolution, to declare (I believe in the presence of the heir apparent of the crown, for whom I have the greatest personal zeal) that his Majesty reigned in England, by choice and consent, as the magistrate of the English people ; not indeed a consent and choice by personal election, like the King of Poland, the worst of all possible constitutions ; but by the election of a family for great national objects, in defiance of that hereditary right, which only becomes tyranny, in the sense of Mr. Paine, when it claims to inherit a nation, instead of governing by their consent, and continuing for its benefit.

Gentlemen, this sentiment has the advantage of Mr. Burke's high authority, who says with great truth, in a letter to his constituents, " Too little dependance cannot be had at this time of day on names and prejudices : the eyes of mankind are opened ; and communities must be held together by a visible and solid interest." I believe, Gentlemen of the Jury, that the Prince of Wales will always render this title dear to the people. The Attorney General can only tell you what he believes of him ; I can tell you what I know, and what I am bound to declare, since this prince may be traduced and calumniated in every part of the kingdom, without its coming often in question, till brought in to load a defence with matter-collateral to the charge. I therefore assert what the Attorney General can only hope, that, whenever that Prince shall come to the throne of this country (which I hope, but by the course of nature, will never happen), he will make the Constitution of Great Britain the foundation of all his conduct.

Having now, Gentlemen, established the author's general

ral intention by his own introduction, which is the best and fairest exposition, let us next look at the occasion which gave it birth.

The Attorney General, throughout the whole course of his address to you (I knew it would be so), has avoided the most distant notice or hint of any circumstance having led to the appearance of the author in the political world, after a silence of so many years; he has not even pronounced, or even glanced at the name of Mr. Burke, but has left you to take it for granted that the defendant volunteered this delicate and momentous subject; and that, without being led to it by the provocation of political controversy, he had seized a favourable moment to stigmatise, from mere malice, and against his own confirmed opinions, the Constitution of this Country.

Gentlemen, my learned friend knows too well my respect and value for him to suppose that I am charging him with a wilful suppression; I know him to be incapable of it; he knew it would come from me. He will permit me, however, to lament that it should have been left for me, at this late period of the cause, to inform you, that, not only the work before you, but the First Part, of which it is a natural continuation, were written *avowedly, and upon the face of them,*
 IN ANSWER TO MR. BURKE. They were written besides under circumstances which I shall hereafter explain, and in the course of which explanation I may have occasion to cite a few passages from the works of that celebrated person.— And I shall speak of him with the highest respect: for, with whatever contempt he may delight to look down upon my humble talents, however he may disparage the principles which direct my public conduct, he shall never force me to forget the regard which this country owes to him for the writings which he has left upon record for the illumination of our most distant posterity. After the gratitude which we owe to God for the divine gifts of reason and understanding, our next thanks are due to those from the fountain of whose enlightened minds they are fed and fructified. But pleading, as I do, the cause of freedom of opinions, I shall not give offence by remarking that this great author has been thought to have changed some of his; and, if Mr. Paine had not thought so, I should not now be addressing you, because the book which is my subject would never have been written.

written. Who is right and who is wrong, in the contention of doctrines, I have repeatedly disclaimed to be the question; I can only say that Mr. Paine may be right throughout, but that Mr. Burke cannot—Mr. Paine has been uniform in his opinions, but Mr. Burke has not—Mr. Burke can only be right in part; but, should Mr. Paine be even mistaken in the whole, still I am not removed from the principle of his defence. My defence has nothing to do with either the concealment or rectitude of his doctrines. I admit Mr. Paine to be a republican; you shall soon see what made him one—I do not seek to shade or qualify his attack upon our constitution; I put my defence on no such matter—he undoubtedly means to declare it to be defective in its forms, and contaminated with abuses, which, in his judgment, will one day or other bring on the ruin of us all: it is in vain to mince the matter; this is the scope of his work. But still, if it contains no attack upon the King's Majesty, nor upon any other living magistrate; if it excites to no resistance to magistracy, but, on the contrary, if it even inculcates, as it does, obedience to government, then, whatever may be its defects, the question continues as before, and ever must remain an unmixed question of the liberty of the press. I therefore considered it as no breach of professional duty, nor injurious to the cause I am defending, to express my own admiration of the real principles of our constitution—a constitution which I hope never to see give way to any other—a constitution which has been productive of various benefits, and which will produce many more hereafter, if we have wisdom enough to pluck up those weeds that grow in the richest soils and amongst the brightest flowers. I agree with the merchants of London, that the English government is equal to the reformation of its own abuses; and, as an inhabitant of the city, I would have signed their Declaration, if I had known, *of my own knowledge*, the facts recited in its preamble. But abuses the English constitution unquestionably has, which call loudly for reformation, the existence of which has been the theme of our greatest statesmen, which have too plainly formed the principles of the defendant, and created the very conjuncture which produced his book.

Gentlemen, we all but too well remember the calamitous situation in which our country stood but a few years ago—
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a situation which no man can look back upon without horror, nor feel himself safe from relapsing into again, while the causes remain which produced it. The event I allude to you must know to be the American war and the still existing causes of it, the corruptions of this government. In those days it was not thought virtue by the patriots of England to conceal their existence from the people; but then, as now, authority condemned them as disaffected subjects, and defeated the ends they sought by their promulgation.

Hear the opinion of Sir George Saville;—not his speculative opinion concerning the structure of our government in the abstract, but his opinion of the settled abuses which prevailed in his own time, and which continue at this moment. But first let me remind you who Sir George Saville was—I fear we shall hardly look upon his like again—How shall I describe him to you?—In my own words I cannot. I was lately commended by Mr. Burke, in the House of Commons, for strengthening my own language by an appeal to Dr. Johnson. Were the honourable gentleman present at this moment, he would no doubt doubly applaud my choice in resorting to his own works for the description of Sir George Saville:

“ His fortune is among the largest; a fortune, which,
 “ wholly unincumbered as it is, without one single charge
 “ from luxury, vanity, or excess, sinks under the bene-
 “ volence of its dispenser. This private benevolence,
 “ expanding itself into patriotism, renders his whole be-
 “ ing the estate of the public, in which he has not reserv-
 “ ed a *peculium* for himself of profit, diversion, or relaxa-
 “ tion. During the session, the first in, and the last out
 “ of the House of Commons; he passes from the senate
 “ to the camp; and, seldom seeing the seat of his ances-
 “ tors, he is always in Parliament to serve his country,
 “ or in the field to defend it.”

It is impossible to ascribe to such a character any principle but patriotism, when he expressed himself as follows:

“ I return to you baffled and dispirited, and I am sorry
 “ that truth obliges me to add, with hardly a ray of hope
 2 “ of

“ of seeing any change in the miserable course of public
“ calamity.

“ On this melancholy day of account, in rendering
“ up to you my trust, I deliver to you your share of a
“ country maimed and weakened ; its treasure lavished
“ and mis-spent ; its honours faded ; and its conduct the
“ laughing-stock of Europe : our nation in a manner
“ without allies or friends, except such as we have hired
“ to destroy our fellow-subjects, and to ravage a country,
“ in which we once claimed an invaluable share. I re-
“ turn to you some of your principal privileges impeach-
“ ed and mangled. And, lastly, I leave you, as I con-
“ ceive, at this hour and moment fully, effectually, and
“ absolutely, under the discretion and power of a military
“ force, which is to act without waiting for the authori-
“ ty of the civil magistrates.

“ Some have been accused of exaggerating the public
“ misfortunes, nay of having endeavoured to help for-
“ ward the mischief, that they might afterwards raise dis-
“ contents. I am willing to hope, that neither my tem-
“ per nor my situation in life, will be thought naturally
“ to urge me to promote misery, discord, or confusion,
“ or to exult in the subversion of order, or in the ruin of
“ property. I have no reason to contemplate with plea-
“ sure the poverty of our country, the increase of our
“ debts, and of our taxes ; or the decay of our commerce.
“ — Trust not, however, to my report ; reflect, compare,
“ and judge for yourselves.

“ But, under all these disheartening circumstances, I
“ could yet entertain a cheerful hope, and undertake again
“ the commission with alacrity, as well as zeal, if I could
“ see any effectual steps taken to remove the original
“ cause of the mischief—‘ Then would there be a hope.’

“ But, till the purity of the constituent body, and
“ thereby that of the representative, be restored, there is
“ NONE.

“ I gladly embrace this most public opportunity of de-
“ livering my sentiment, not only to all my constituents,
“ but to those likewise not my constituents, whom yet,
“ in the large sense, I represent, and am faithfully to
“ serve.

“ I look

" I look upon restoring election and representation in
 " some degree (for I expect no miracles) to their original
 " purity, to be that, without which all other efforts will
 " be vain and ridiculous.
 " If something be not done, you may, indeed, retain
 " the outward form of your constitution, but not the
 " power thereof."

Such were the words of that great good man, lost with those of many others of his time, and his fame, as far as power could hurt it, put in the shade along with them.—The consequences we have all seen and felt: America, from an obedient and affectionate colony, became an independent nation; and two millions of people, nursed in the very lap of our monarchy, became the willing subjects of a republican constitution.

Gentlemen, in that great and calamitous conflict Mr. Burke and Mr. Paine fought in the same field of reason together, but with different successes. Mr. Burke spoke to a Parliament in England, such as Sir George Saville describes it, that had no ears but for sounds that flattered its corruptions. Mr. Paine, on the other hand, spoke TO A PEOPLE; reasoned with them, that they were bound by no subjection to any sovereignty, further than their own benefits connected them; and by these powerful arguments prepared the minds of the American people for that GLORIOUS, JUST, and HAPPY revolution.

Gentlemen, I have a right to distinguish it by that appellation, because I aver that at this moment there is as sacred a regard to property; as inviolable a security to all the rights of individuals; lower taxes; fewer grievances; less to deplore, and more to admire, in the constitution of America, than that of any other country under heaven. I wish indeed to except our own, but I cannot even do that, till it shall be purged of those abuses which, though they obscure and deform the surface, have not as yet (*thank God*) destroyed the vital parts.

Why then is Mr. Paine to be calumniated, and reviled, because out of a people consisting of near three millions, he alone did not remain attached in opinion to a monarch.—Remember, that all the blood which was shed in America, and to which he was for years a melancholy and indignant witness,

“ of seeing any change in the miserable course of public
“ calamity.

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“ up to you my trust, I deliver to you your share of a
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 witness,

witness, was shed by the authority of the crown of Great Britain, under the influence of its parliament, such as Sir George Saville has described it, and such as Mr. Burke himself will be called upon by and by in more glowing colours to paint it. How then can it be wondered at that Mr. Paine should return to this country in his heart a republican? Was he not equally republican when he wrote *Common Sense*?—yet that volume has been sold without restraint or prosecution in every shop in England ever since, and which nevertheless (*I appeal to the book, which I have in court, and which is in every body's hands*) contains every one principle of government, and every abuse in the British constitution, which is to be found in the *Rights of Man*. Yet Mr. Burke himself saw no reason to be alarmed at its publication, nor to cry down its contents, even when America which was swayed by it, was in arms against the crown of Great Britain. You shall hear his opinion of it, in his letter to the sheriffs of Bristol, pages 33 and 34.

“ The court gazette accomplished what the abettors of
 “ independence had attempted in vain. When that disin-
 “ genuous compilation, and strange medley of railing and
 “ flattery, was adduced, as a proof of the united sentiments
 “ of the people of Great Britain, there was a great
 “ change throughout all America. The tide of popular
 “ affection, which had still set towards the parent coun-
 “ try, began immediately to turn, and to flow with grea-
 “ ter rapidity in a contrary course. Far from concealing
 “ these wild declarations of enmity, *the author of the cele-*
 “ *brated pamphlet which prepared the minds of the people for*
 “ *independence*, insists largely on the multitude and the
 “ spirit of these addresses; and draws an argument from
 “ them, which (if the fact were as he supposes) must be
 “ irresistible. For I never knew a writer on the theory
 “ of government so partial to authority, as not to allow,
 “ that the hostile mind of the rulers to their people, did
 “ fully justify a change of government; nor can any rea-
 “ son whatever be given, why one people should voluntar-
 “ ily yield any degree of pre-eminence to another, but
 “ on a supposition of great affection and benevolence to-
 “ wards them. Unfortunately your rulers, trusting to
 “ other things, took no notice of this great principle of
 “ connexion.”

But

But there is a time, it seems, for all things.

Gentlemen, the consequences of this mighty revolution are too notorious to require illustration. No audience would sit to hear (what every body has seen and felt,) the independence of America notoriously produced, not by remote and circuitous effect, but directly and palpably, the revolutions which now agitate Europe, and which portend such new changes over the face of the earth. Let governors take warning. The revolution in France was the consequence of her incurably corrupt and profligate government. God forbid that I should be thought to lean, by this declaration, upon her unfortunate monarch, bending, perhaps at this moment, under afflictions which my heart sinks within me to think of; but, when I speak with detestation of the former politics of the French court, I fasten as little of them upon that fallen and unhappy prince, as I impute to our gracious sovereign the corruptions of our own government. I desire, indeed, in the distinctest manner, to be understood that I mean to speak of his Majesty, not only with that obedience and duty which I owe to him as a subject, but with that justice which I think is due to him from all men who examine his conduct either in public or private life.

Gentlemen, Mr. Paine happened to be in England when the French revolution took place, and notwithstanding what he must be supposed and allowed from his history to have felt upon such a subject, he remained wholly silent and inactive. The people of this country too appeared to be indifferent spectators of the animating scene. They saw without visible emotion, despotism destroyed, and the King of France, by his own consent, become the first magistrate of a free people. Certainly, at least, it produced none of those effects which are so deprecated by government at present; nor, most probably, ever would, if it had not occurred to the celebrated person, whose name I must so often mention, voluntarily to provoke the subject; a subject which, if dangerous to be discussed, he should not have led to the discussion: for, surely, it is not to be endured, that any private man is to publish a creed for a whole nation; to tell us that we are not to think for ourselves—to impose his own fetters upon the human mind—to dogmatise at discretion—and that

no man shall sit down to answer him without being guilty of a libel. I assert, that if it be a libel to mistake our constitution—to support it by means that tend to destroy it—and to choose the most dangerous season for the interference, Mr. Burke is that libeller; but not therefore the object of a criminal prosecution: for, whilst I am defending the motives of one man, I have neither right nor disposition to criminate the motives of another. All I contend for, is a fact that cannot be controverted, viz. that this officious interference was the origin of Mr. Paine's book. I put my cause upon its being the origin of it—the avowed origin—as will abundantly appear from the introduction and preface to both parts, and throughout the whole body of the work; nay, from the very work of Mr. Burke himself, to which both of them are answers.

Gentlemen, for the history of that celebrated work, I appeal to itself.

When the French revolution had arrived at some of its early stages, a few, and but a few, persons (not to be named when compared with the nation) took a visible interest in these mighty events; an interest well worthy of Englishmen. They saw a pernicious system of government, which had led to cruel desolating wars, and had been for ages the scourge of Great Britain, giving way to a system which seemed to promise harmony and peace amongst the nations. They saw this with virtuous and peaceable satisfaction: And a reverend divine*, eminent for his eloquence, recollecting that the issues of life are in the hands of God, saw no profaneness in mixing the subject with public thanksgiving; reminding the people of this country of their own glorious deliverance in former ages. It happened, also, that a society of gentlemen, France being then a neutral nation, and her own monarch swearing almost daily upon her altars to maintain the new constitution, thought they infringed no law by sending a general congratulation. Their numbers, indeed, were very inconsiderable; so much so, that Mr. Burke, with more truth than wisdom, begins his volume with a sarcasm upon their insignificance.

“ Until very lately he had never heard of such a club.
“ It certainly never occupied a moment of his thoughts;

*Dr. Price.

“ nor, he believed, those of any person out of their own
“ set.”

Why then make their proceedings the subject of alarm throughout England?—There had been no prosecution against them, nor any charge founded upon suspicion of disaffection against any of their body. But Mr. Burke thought it was reserved for his eloquence to whip these curs of faction to their kennels. How he has succeeded, I appeal to all that has happened since the introduction of his schism in the British empire, by giving to the King, whose title was questioned by no man, a title which it is his Majesty's most solemn interest to disclaim.

After having, in his first work, lashed Dr. Price in a strain of eloquent irony for considering the monarchy to be elective, which he could not but know Dr. Price, in the literal sense of election, neither did or could possibly consider it, Mr. Burke published a second treatise; in which, after reprinting many passages from Mr. Paine's former work, he ridicules and denies the supposed right of the people to change their governments, in the following words:

“ The French revolution, *say they*,” (speaking of the English societies) “ was the act of the majority of the people; and if the majority of any other people, *the people of England, for instance*, wish to make the same change, they have the same right; just the same undoubtedly; that is, none at all.”

And then, after speaking of the subserviency of will to duty, (in which I agree with him,) he, in a substantive sentence, maintains the same doctrine; thus:

“ The constitution of a country being once settled upon some compact, tacit or expressed, there is no power existing of force to alter it, without the breach of the covenant, or the consent of all the parties. Such is the nature of a contract.”

So that if reason, or even revelation itself, were now to demonstrate to us, that our constitution was mischievous in its effects; that, to use Mr. Attorney General's expression, we had been insane for the many centuries we have supported it; yet that still, if the King had not forfeited his title to the crown, nor the Lords their privileges, the universal voice of the whole people of England could not build up a new government upon a legitimate basis!

Gentlemen, not to argue for the present against such a proposition, and supposing it could, beyond all controversy, be maintained; for heaven's sake, let wisdom never utter it! Let policy and prudence for ever conceal it! If you seek the stability of the English government, rather put the book of Mr. Paine, which calls it bad, into every hand in the kingdom, than doctrines which bid human nature rebel even against that which is the best.—Say to the people of England, Look at your constitution, there it lies before you—the work of your pious fathers, handed down as a sacred deposit from generation to generation, the result of wisdom and virtue, and its parts cemented together with kindred blood. There are, indeed, a few spots upon its surface; but the same principle which reared the structure will brush them all away: you may keep it, or you may destroy it.—To such an address, what would be the answer? A chorus of the nation—YES, WE WILL PRESERVE IT. But say to the same nation, even of the very same constitution, It is yours, such as it is, for the better or for worse; it is strapped upon your backs, to carry it as beasts of burthen, and you have no jurisdiction to cast it off. Let this be your position, and you instantly raise up (I appeal to every man's consciousness of his own nature) a spirit of uneasiness and discontent. Yet it is the controversy alone, which this useless and mischievous proposition stirred up, that has pointed most of the passages arraigned before you, which it will be presently my duty to explain.

But let the prudence of the argument be what it may, the argument itself is untenable.

His Majesty undoubtedly was not elected to the throne. No man can be supposed, in the teeth of fact, to have contended it; but did not the people of England elect King William, and break the hereditary succession? and does not his Majesty's

Majesty's title grow out of that election? It is one of the charges against the defendant, his having denied the parliament which called the Prince of Orange to the throne to have been a legal convention of the whole people; and is not the foundation of that charge, that it was such a legal convention, and that it was intended to be so? and if it was so, did not the people then confer the crown upon King William without any regard to hereditary right? Did they not cut off the Prince of Wales, who stood directly in the line of succession, and who had incurred no personal forfeiture? Did they not give their deliverer an estate in the crown totally new and unprecedented in the law or history of the country? And, lastly, might they not, by the same authority, have given the royal inheritance to the family of a stranger? Mr. Justice Blackstone, in his Commentaries, in terms, asserts that they might; and ascribes their choice of King William, and the subsequent limitations of the crown, not to want of jurisdiction, but to their true origin, prudence and discretion in not disturbing a valuable institution further than public safety and necessity dictated.

The English government stands then on this public consent, the true root of all governments. And I agree with Mr. Burke, that, while it is well administered, it is not in the power of factions or libels to disturb it; though, when ministers are in fault, they are sure to set down all disturbances to these causes. This is most justly and eloquently exemplified in the *Thoughts on the Cause of the present Discontents*, pages 5 and 6.

“ Ministers contend that no adequate provocation has been
 “ given for so spreading a discontent, our affairs having been
 “ conducted throughout with remarkable temper and con-
 “ summate wisdom. The wicked industry of some libellers,
 “ joined to the intrigues of a few disappointed politicians,
 “ have, in their opinion, been able to produce this unna-
 “ tural ferment in the nation.

“ Nothing, indeed, can be more unnatural than the pre-
 “ sent convulsions of this country, if the above account be
 “ a true one. I confess I shall assent to it with great reluct-
 “ ance, and only on the compulsion of the clearest and firm-
 “ est proofs; because their account resolves itself into this
 “ short

“ short but discouraging proposition, ‘ That we have a very
 “ good ministry, but that we are a very bad people ; that we
 “ set ourselves to bite the hand that feeds us ; and, with a
 “ malignant insanity, oppose the measures, and ungrate-
 “ fully vilify the persons of those whose sole object is our
 “ own peace and prosperity. If a few puny libellers, act-
 “ ing under a knot of factious politicians, without virtue,
 “ parts, or character (for such they are constantly represent-
 “ ed by these gentlemen), are sufficient to excite this disturb-
 “ bance, very perverse must be the disposition of that peo-
 “ ple, amongst whom such a disturbance can be excited by
 “ such means.”

He says true : never were serious disturbances excited by such means !

But to return to the argument.—Let us now see how the rights of the people stand upon authority, and whether this great source of government is not maintained by persons on whom my friend will find it hard to fasten the character of libellers.

I shall begin with the most modern author on the subject of government—a gentleman, whose work lies spread out before me, as it often does for my delight and instruction in my leisure hours. I have also, by the favour of a friend who sits near me in court, the honour of his personal acquaintance. He is a man, perhaps more than any other, devoted to the real constitution of the country, as will be found throughout his valuable work ; and he is a person, besides, of great learning, which enabled him to infuse much useful knowledge into my learned friend who introduced me to him*. I speak of Mr. Paley, Archdeacon of Carlisle, and of his work, entitled, *The Principles of Political and Moral Philosophy*, in which he investigates the first principles of all governments—a discussion not thought dangerous till lately : and I hope we shall soon get rid of this ridiculous panic.

Mr. Paley professes to think of governments what the Christian religion was thought of by its first teachers :—‘ If it be of God it will stand ;’ and he puts the duties of obedience to them upon free will and moral duty. After dissenting from Mr. Locke as to the origin of governments in compact, he says,

* Mr. Law, King’s Counsel.

“ Wherefore,

“ Wherefore, rejecting the intervention of a compact as unfounded in its principle, and dangerous in the application, we assign for the only ground of the subjects’ obligation, **THE WILL OF GOD, AS COLLECTED FROM EXPEDIENCY.** ”

“ The steps by which the argument proceeds are few and direct.—‘ It is the will of God that the happiness of human life be promoted :’—this is the first step, and the foundation, not only of this, but of every moral conclusion.—‘ Civil society conduces to that end :’—this is the second proposition. ‘ Civil societies cannot be upheld, unless in each, the interest of the whole society be binding upon every part and member of it :’—this is the third step, and conducts us to the conclusion, namely,—‘ That, so long as the interest of the whole society requires it (that is, so long as the established government cannot be resisted or changed without public inconveniency) it is the will of God (which will universally determines our duty) that the established government be obeyed,’—and no longer. ”

“ But who shall judge of this? We answer, ‘ Every man for himself.’ In contentions between the sovereign and the subject, the parties acknowledge no common arbitrator ; and it would be absurd to commit the decision to those whose conduct has provoked the question, and whose own interest, authority, and fate, are immediately concerned in it. The danger of error and abuse is no objection to the rule of expediency, because every other rule is liable to the same or greater ; and every rule that can be propounded upon the subject (like all rules which appeal to, or bind the conscience) must, in the application, depend upon private judgment. It may be observed, however, that it ought equally to be accounted the exercise of a man’s private judgment, whether he determines by reasonings and conclusions of his own, or submits to be directed by the advice of others, provided he be free to choose his guide.”

He then proceeds in a manner rather inconsistent with the principles entertained by my learned friend in his opening to you:—

“ No usage, law, or authority whatever, is so binding, that it need or ought to be continued, when it may be changed with advantage to the community. The family of the prince—the order of succession—the prerogative of the crown—the form and parts of the legislature—together with the respective powers, office, duration, and mutual dependency of the several parts; are all only so many laws, mutable, like other laws, whenever expediency requires, either by the ordinary act of the legislature, or, if the occasion deserve it, BY THE INTERPOSITION OF THE PEOPLE.”

No man can say that Mr. Paley intended to diffuse discontent by this declaration. He must therefore be taken to think with me, that freedom and affection, and the sense of advantages, are the best and the only supports of government.—On the same principle, he then goes on to say,—“ These points are wont to be approached with a kind of awe; they are represented to the mind as principles of the constitution, settled by our ancestors, and being settled, to be no more committed to innovation or debate; as foundations never to be stirred; as the terms and conditions of the social compact, to which every citizen of the state has engaged his fidelity, by virtue of a promise which he cannot recall. Such reasons have no place in our system.”

Such are the sentiments of this excellent author, and there is no part of Mr. Paine's work, from the one end of it to the other, that advances any other proposition.

But the Attorney General will say, these are the grave speculative opinions of a friend to the English Government, whereas Mr. Paine is its professed enemy; what then? the principle is, that every man, while he obeys the laws, is to think for himself, and to conduct himself as he thinks. The very ends of society exact this licence, and the policy of the law,

law, in its provisions for its security, has tacitly sanctioned it. The real fact is, that writings against a free and well-proportioned Government, need not be guarded against by laws. They cannot often exist, and never with effect. The just and awful principles of society, are rarely brought forward, but when they are insulted and denied, or abused in practice: Mr. Locke's Essay on Government, we owe to Sir Robert Filmer, as we owe Mr. Paine's to Mr. Burke; and indeed, between the arguments of Filmer and Burke, I see no essential difference; since it is not worth disputing, whether a King exists by *Divine* right, or indissoluble *Human* compact, if he exists whether we will or no: If his existence be without our consent, and to continue without our benefit, it matters not a farthing, whether his title be from God or from Man.

That his title is from man, and from every generation of man, without regard to the determination of former ones, hear from Mr. Locke, "*All men; say they, (i. e. Filmer and his adherents,) are born under government, and therefore they cannot be at liberty to begin a new one. Every one is born a subject to his father, or his prince, and is therefore under the perpetual tie of subjection and allegiance. It is plain, mankind never owned nor considered any such natural subjection that they were born in, to one or to the other, that tied them, without their own consents, to a subjection to them and their heirs.*"

"It is true, that whatever engagements or promises any one has made for himself, he is under the obligation of them, but cannot, by any compact whatsoever, bind his children or posterity: for his son, when a man, being altogether as free as the father, any *act of the father can no more give away the liberty of the son*, than it can of any body else."

So much for Mr. Locke's opinion of the rights of mankind. Let us now examine his ideas of the supposed danger of trusting them with them.

"Perhaps it will be said, that the people being ignorant, and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humour of the people, is to expose it to certain ruin: and no government will be able long to subsist, if the people may set up a new legislature, whenever they take offence at the old one. To this, I answer quite the contrary: people are not so easily got out of their old forms, as some are apt

"to suggest : they are hardly to be prevailed with to amend
 "the acknowledged faults in the frame they have been ac-
 "customed to ; and if there be any original defects, or
 "adventitious ones introduced by time, or corruption, it is
 "not an easy thing to be changed, even when all the world
 "sees there is an opportunity for it. This slowness and
 "aversion in the people to quit their old constitutions, has in
 "the many revolutions which have been seen in this king-
 "dom, in this and former ages, still kept us to, or, after
 "some interval of fruitless attempts, still brought us back
 "again to our old legislative of king, lords and commons :
 "and whatever provocations have made the crown be taken
 "from some of our princes heads, they never carried the
 "people so far as to place it in another line."

Gentlemen, I wish I had strength to go on with all that
 is material, but I have read enough, not only to maintain
 the true principles of government, but to put to shame the
 narrow system of distrusting the people.

It may be said, that Mr. Locke went great lengths in his
 positions, to beat down the contrary doctrine of divine
 right, which was then endangering the new establishment.
 But that cannot be objected to David Hume, who maintains
 the same doctrine ; speaking of the Magna Charta in his
 history, vol. ii. page 88, he says, "It must be confessed,
 "that the former articles of the great charter, contain
 "such mitigations and explanations of the feudal law, as
 "are reasonable and equitable ; and that the latter involve
 "all the chief outlines of a legal Government, and provide
 "for the equal distribution of justice and free enjoyment
 "of property ; the great object for which political society
 "was founded by men, *which the people have a perpetual and*
 "*unalienable right to recall* ; and which no time, nor prece-
 "dent, no statute, nor positive institution, ought to deter
 "them from keeping ever uppermost in their thoughts and
 "attention."

These authorities are sufficient to rest on, yet I cannot
 omit Mr. Burke himself, who is, if possible, still more dis-
 tinct on the subject. Speaking not of the ancient people of
 England, but of Colonies planted almost within our me-
 mories, he says, "If there be one fact in the world perfectly
 "clear, it is this ; That the disposition of the people of Ame-
 "rica is wholly averse to any other than a free Government,
 "and this is indication enough to any honest statesman, how
 "he

" he ought to adapt whatever power he finds in his hands to
 " their case. If any ask me what a free Government is, I
 " answer, THAT IT IS WHAT THE PEOPLE
 " THINK SO; AND THAT THEY AND
 " NOT I, ARE THE NATURAL, LAWFUL, AND
 " COMPETENT JUDGES OF THIS MATTER.
 " If they practically allow me a greater degree of authority
 " over them than is consistent with any correct ideas of perfect
 " freedom, I thought to thank them for so great a trust, and
 " not to endeavour to prove from thence, that they have
 " reasoned amiss, and that having gone so far, by analogy,
 " they must hereafter have no enjoyment but by my plea-
 " sure."

Gentlemen, I am sorry to feel my time considerably con-
 sumed before I am arrived at what I conceive to be the ma-
 terial subject of your consideration. For all that I have been
 stating now, is only to shew; that there is not that novelty
 in the opinions of the defendant, that should lead you to think
 that he does not *bona fide* entertain them, much less when
 connected with the history of his life, which I therefore
 brought in review before you.—But still the great question
 remains unargued. Had he a right to promulgate these opi-
 nions? Gentlemen, if he entertained them, I shall argue
 that he had—And although my arguments upon the
 Liberty of the Press, may not to-day be honoured with
 your, or the Court's approbation, I shall retire not at
 all disheartened, consoling myself with the reflection, that
 a season may arrive for their reception.—The most essential
 freedoms of mankind have been but slowly and gradually
 received, and so very late, indeed, do some of them come
 to maturity, that notwithstanding the Attorney General tells
 you that the very question I am now agitating, is most pe-
 culiarly for *your* consideration, AS A JURY, under our
 ANCIENT Constitution, yet I must remind both you and
 him, that your jurisdiction to consider and deal with it at all
 in judgment, is but A YEAR OLD.—When, before that late
 period, I ventured to maintain this very RIGHT OF A JURY
 over the question of Libel under the same *ancient* Constitu-
 tion. (I do not mean before my Lord, for the matter was
 gone to rest in the Courts, at least long before he came to
 sit where he does.) But when, before a Noble and Reverend
 Magistrate of the most exalted understanding, and of the
 most uncorrupted integrity, to give effect to it *, I had oc-

* Earl Mansfield

casion to maintain it, he treated me, not with disregard^d indeed, for of that his nature was incapable ; but he put me aside with indulgence, as you do a child while it is lisping its prattle out of season ; and if this cause had been tried then, instead of now, the Defendant must have been instantly convicted on the proof of the publication, whatever *you* might have thought of his case.—Yet, I have lived to see it resolved, by an almost unanimous vote of the whole Parliament of England, that I had all a long been in the right. If this be not an awful lesson of caution concerning opinions, where are such lessons to be read !

Gentlemen, I have insisted, at great length, upon the origin of Government being in the consent of the people ; and detailed the authorities which you have heard upon the subject, because I consider it to be not only a support, but, indeed, the only foundation of the Liberty of the Press. If Mr. Burke be right in his principles of Government, I admit that the Press, in my sense of its freedom, ought not to be free, *nor free in any sense at all* ; and that all Addresses to the people upon the subject of Government ; and all speculations of amendment, of what kind or nature soever, are illegal and criminal :—For, if the people have, without possible recall, delegated all their authorities, they have no jurisdiction to act, and therefore none to think, upon such subjects ; and it is a libel to arraign Government or any of its acts, before those that have no jurisdiction to correct them. But on the other hand, as it is a settled rule in the Law of England, that the subject may always address a competent jurisdiction on every matter within it, no legal argument can shake the freedom of the Press in my sense of it, if I am supported in my doctrines concerning the great unalienable rights of the people, to change or to reform their Governments.

Gentlemen, it is because the Liberty of the Press resolves itself into this great issue, that it has been in every time and country, the last liberty which subjects have been able to wrest from power.—Other liberties are held under Governments, but the liberty of opinion keeps Governments themselves in due subjection to their duties. This has produced the martyrdom of truth in every age, and the world has only purged itself from ignorance with the innocent blood of those who have enlightened it.

Gentlemen, my strength and time are wasted, and I can only make this melancholy history pass like a shadow before you.

I shall begin with the grand type and example.

The universal God of Nature,—the Saviour of mankind,—the Fountain of all Light, who came to pluck the world from eternal darkness, expired upon a cross the scoff of infidel-scorn; and his blessed Apostles followed him in the train of Martyrs. When he came in the flesh, he might have come like the Mahometan Prophet, as a powerful Sovereign, and propagated that religion with an unconquerable sword, which even now, after the lapse of ages, is but slowly moving, under the influence of reason, over the face of the earth: But such a process would have been inconsistent with his mission, which was to confound the pride, and to establish the universal rights of men; he came therefore in that lowly state which is represented in the Gospel, and preached his consolations to the poor.

When the foundation of this religion was discovered to be invulnerable and immortal, we find political power taking the church into partnership; thus began the corruptions both of Religion and Civil Power, and, hand in hand together, what havoc have they not made in the world; ruling by ignorance and the persecution of truth; but this very persecution only hastened the revival of letters and liberty, which was to destroy the one and to raise up the other. Nay, you will find, that in the exact proportion that knowledge and learning have been beat down and fettered, they have destroyed the Governments that bound them. The Court of Star-Chamber, the first restriction on the Press of England, was erected in 1637. From that moment no man could legally write without an Imprimatur from the State; but truth and freedom found their way with greater force through secret channels, and the unhappy Charles, unwarned by a free press, was brought in eleven years afterwards to an ignominious death.

When men can freely communicate their thoughts and their sufferings, real or imaginary, their passions spend themselves in air, like gun-powder scattered upon the surface; but pent up by terrors, they work unseen like subterraneous fire, burst forth in earthquake, and destroy every thing in course. Let reason be opposed to reason, and argument to argument, and every good Government will be safe.

The

The Usurper, Cromwell, pursued the same system of restraint in support of his Government, and the end of it speedily followed.

At the Restoration of Charles the Second, the Star-Chamber Ordinance of 1637, was worked up into an Act of Parliament, and was followed up during that reign, and the short one that followed it, by the most sanguinary prosecutions, but what fact in history is more notorious, than that this blind and contemptible policy prepared and hastened on the Revolution! At that great æra these cobwebs were all brushed away: The freedom of the Press was regenerated, and the Country, ruled by its affections, has since enjoyed a century of tranquillity and glory—Thus I have maintained, by English History, that in proportion as the Press has been free, English Government has been secure.

Gentlemen, I will now support the same important truth by very great authorities. Upon a subject of this kind resort cannot be had to Law Cases. The ancient Law of England knew nothing of such Libels; they began, and should have ended, with the Star-Chamber. What writings are slanderous of individuals, must be looked for where these prosecutions are recorded; but upon general subjects we must go to general writers. If, indeed, I were to refer to obscure authors, I might be answered, that my very authorities were Libels, instead of justifications or examples; but this cannot be said with effect of great men, whose works are classics in our language, taught in our schools, and printed under the eye of Government.

Gentlemen, I shall begin with the Poet Milton, a great authority in all learning.—It may be said, indeed, he was a Republican, but that would only prove that Republicanism is not incompatible with virtue; it may be said too, that the work which I cite was written against previous Licensing, which is not contended for to-day. But, in my opinion, if every work is to be adjudged a libel, which is adverse to the wishes of Government, or to the opinions of those who may try it, the revival of a Licensor would be a security to the public: For, if I present my book to a Magistrate appointed by law, if he rejects it, I have only to forbear from the publication, and in the forbearance I am safe; and he too is answerable to Law for the abuse of his authority. But, upon the argument of to-day, a man must print at his peril, without any guide to the principles of judgment, upon which his work may be afterwards prosecuted
and

and condemned. Milton's argument therefore applies, and was meant to apply, to every interruption to writing, which, while they oppress the individual, endanger the State.

"We have them not," says Milton, "that can be heard of, from any ancient state, or polity, or church, nor by any statute left us by our ancestors, elder or later, nor from the modern custom of any reformed city, or church abroad; but from the most antichristian council, and the most tyrannous inquisition that ever existed. Till then, books were ever as freely admitted into the world as any other birth; *the issue of the brain was no more stifled than the issue of the womb.*

"To the pure all things are pure; not only meats and drinks, but all kind of knowledge whether good or evil; the knowledge cannot defile, nor consequently the books, if the will and conscience be not defiled.

"Bad books serve in many respects to discover, to confute, to forewarn and to illustrate. Whereof, what better witness can we expect I should produce, than one of your own, now sitting in parliament, the chief of learned men reputed in this land, *Mr. Selden*; whose volume of natural and national laws, proves, not only by great authorities brought together, but by exquisite reasons and theorems almost mathematically demonstrative, that all opinions, yea errors, known, read and collated, are of main service and assistance toward the speedy attainment of what is truest.

"Opinions and understanding are not such wares as to be monopolized and traded in by tickets and statutes, and standards. We must not think to make a staple commodity of all the knowledge in the land, to mark and license it like our broad cloth and our woolpacks."

"Nor is it to the common people less than a reproach; for if we be so jealous over them that we cannot trust them with an English pamphlet, what do we but censure them, for a giddy, vicious, and ungrounded people; in such a sick and weak estate of faith and discretion, as to be able to take nothing down but through the pipe of a Licenser. That this is care or love of them we cannot pretend.

"Those corruptions which it seeks to prevent, break in faster at doors which cannot be shut.

“ To prevent men thinking and acting for themselves, by
“ restraints on the press, is like the exploits of that gallant
“ man, who, thought to pound up the crows by shutting his
“ park gate.

“ This obstructing violence meets for the most part with
“ an event, utterly opposite to the end which it drives at:
“ instead of suppressing books, it raises them and invests
“ them with a reputation: the punishment of wits enhances
“ their authority, saith the Viscount St. Albans'; and a
“ forbidden writing is thought to be a certain spark of truth,
“ that flies up in the face of them who seek to tread it
“ out.”

He then adverts to his visit to the famous Galileo, whom
he found and visited in the inquisition, “ for not thinking
“ in Astronomy with the Franciscan and Dominican Monks.”
And what event ought more deeply to interest and affect us?
The very laws of Nature were to bend under the rod of a
Licenser; this illustrious Astronomer ended his life within
the bars of a prison, because, in seeing the phases of Venus
through his newly-invented telescope, he pronounced, that
she shone with borrowed light, and from the Sun as the
centre of the universe. This was the mighty crime, the
placing the Sun in the center: that Sun which now inhabits
it upon the foundation of mathematical truth, which enables
us to traverse the pathless ocean, and to carry our line and
rule amongst other worlds, which but for Galileo we had
never known, perhaps even to the recesses of an Infinite and
Immortal God.

Milton then, in his most eloquent address to the parlia-
ment, puts the liberty of the press on its true and most ho-
nourable foundation. “ Believe it, Lords and Commons,
“ they who counsel ye to such a suppressing of books, do
“ as good as bid you suppress yourselves; and I will soon
“ shew how.”

“ If it be desired to know the immediate cause of all this
“ free writing and free speaking, there cannot be assigned
“ a truer than your own mild, and free, and humane Go-
“ vernment; it is the liberty, Lords and Commons, which
“ your own valorous and happy counsels have purchased us;
“ liberty which is the nurse of all great wits: this is that
“ which hath ratified and enlightened our spirits like the
“ influence of heaven; this is that which hath enfranchised,
“ enlarged and lifted up our apprehensions, degrees above
“ themselves.

“ themselves. Ye cannot make us now less capable, less
 “ knowing, less eagerly pursuing the truth, unless ye first
 “ make yourselves, that made us so, less the lovers, less
 “ the founders of our true liberty. We can grow ignorant
 “ again, brutish, formal and slavish, as ye found us; but
 “ you then must first become that which ye cannot be, op-
 “ pressive, arbitrary and tyrannous, as they were from
 “ whom ye have freed us. That our hearts are now more
 “ capacious, our thoughts now more erected to the search
 “ and expectation of greatest and exactest things, is the is-
 “ sue of your own virtue propagated in us. Give me the
 “ liberty to know, to utter, and to argue freely according
 “ to conscience, above all liberties.”

Gentlemen, I will now refer you to another Author,
 whose opinion you may think more in point, as having lived
 in our own times, and as holding the highest monarchical
 principles of Government. I speak of Mr. Hume, who,
 nevertheless, considers, that this Liberty of the Press ex-
 tends not only to abstract speculation, but to keep the public
 on their guard against all the acts of their Government.

After shewing the advantages of a Monarchy to public
 freedom, provided it is duly controlled and watched by the
 popular part of the Constitution, he says, “ These princi-
 “ ples account for the great liberty of the press in these
 “ kingdoms, beyond what is indulged in any other Go-
 “ vernment. It is apprehended, that arbitrary power
 “ would steal in upon us, were we not careful to prevent
 “ its progress, and were there not an easy method of con-
 “ veying the alarm from one end of the kingdom to the
 “ other. *The spirit of the people must frequently be roused, in*
 “ *order to curb the ambition of the Court;* and the dread of
 “ rousing this spirit must be employed to prevent that am-
 “ bition. Nothing is so effectual to this purpose as the li-
 “ berty of the press, by which all the learning, wit, and
 “ genius of the nation, may be employed on the side of
 “ freedom; and every one be animated to its defence. *As*
 “ *long, therefore, as the republican part of our Government can*
 “ *maintain itself against the monarchical, it will naturally be*
 “ *careful to keep the press open, as of importance to its own pre-*
 “ *servation.*”

There is another authority co-temporary with the last,
 a splendid Speaker in the upper House of Parliament, and
 who held during most of his time high offices under the
 King; I speak of the Earl of Chesterfield, who thus ex-

pressed himself in the House of Lords:—"One of the
 "greatest blessings, my Lords, we enjoy, is Liberty; but
 "every good in this life has its alloy of evil—Licentiousness
 "is the alloy of Liberty, it is——."

Lord Kenyon. Doctor Johnson claims to pluck that feather from Lord Chesterfield's wing; he speaks, I believe, of the eye of the political body.

Mr. Erskine. Gentlemen, I have heard it said, that Lord Chesterfield borrowed that which I was just about to state, and which his Lordship has anticipated.

Lord Kenyon. That very speech which did Lord Chesterfield so much honour, is supposed to have been written by Doctor Johnson.

Mr. Erskine. Gentlemen, I believe it was so, and I am much obliged to his Lordship for giving me a far higher authority for my doctrine. For though Lord Chesterfield was a man of great ingenuity and wit, he was undoubtedly far inferior in learning and in monarchical opinion, to the celebrated writer to whom my Lord has now delivered the work by his authority. Doctor Johnson then says, "One
 "of the greatest blessings we enjoy, one of the greatest blessings a people, my Lords, can enjoy, is Liberty; but
 "every good in this life has its alloy of evil: licentiousness
 "is the alloy of liberty: it is an ebullition, an excrescence;
 "it is a speck upon the eye of the political body, which I
 "can never touch but with a gentle, with a trembling
 "hand, lest I destroy the body, lest I injure the eye upon
 "which it is apt to appear.

"There is such a connection between licentiousness and
 "liberty, that it is not easy to correct the one, without
 "dangerously wounding the other; it is extremely hard to
 "distinguish the true limit between them: like a change-
 "able silk, we can easily see there are two different colours,
 "but we cannot easily discover where the one ends,
 "or where the other begins."

I confess, I cannot help agreeing with this learned author. The danger of touching the press is the difficulty of marking its limits. My learned friend, who has just gone out of Court, has drawn no line, and unfolded no principle. He has not told us, if this book is condemned, what book may be written. If I may not write against the existence of a monarchy, and recommend a republic, may I write against any part of the Government? May I say that we should be better without a House of Lords, or a House of Commons,

or

or a Court of Chancery, or any other given part of our establishment? Or if, as has been hinted, a work may become libellous for stating even legal matter with sarcastic phrase, the difficulty becomes the greater, and the liberty of the press quite impossible to define.

The same author, pursuing the subject and speaking of the fall of Roman liberty, says, " But this sort of liberty came soon after to be called licentiousness; for we are told that Augustus, after having established his empire, restored order in Rome by restraining licentiousness. God forbid we should in this country have order restored, or licentiousness restrained, at so dear a rate as the people of Rome paid for it to Augustus.

" Let us consider, my Lords, that arbitrary power has seldom or never been introduced into a country at once. It must be introduced by slow degrees, and as it were, step by step, lest the people should see its approach. The barriers and fences of the people's liberty must be plucked up one by one, and some plausible pretences must be found for removing or hoodwinking, one after another, those sentries who are posted by the constitution of a free country, for warning the people of their danger. When these preparatory steps are once made, the people may then, indeed, with regret, see slavery and arbitrary power making long strides over their land; but it will be too late to think of preventing or avoiding the impending ruin.

" The stage, my Lords, and the press, are two of our out-sentries; if we remove them, if we hoodwink them, if we throw them into fetters, the enemy may surprise us."

Gentlemen, this subject was still more lately put in the justest and most forcible light by a noble person high in the Magistracy; and whose mind is not at all turned to the introduction of disorder by improper popular excesses; I mean Lord Loughborough, chief Justice of the Court of Common Pleas. I believe I can answer for the correctness of my note, which I shall follow up with the opinion of another member of the Lords' house of Parliament; the present Earl Stanhope; or rather, I shall take Lord Stanhope first, as his Lordship introduces the subject by adverting to this argument of Lord Loughborough's. " If," says his Lordship, " our boasted liberty of the press, were to consist only in the liberty to write in praise of the Constitution, this
" is

“ is a liberty enjoyed under many arbitrary governments. I suppose it would not be deemed quite an unpardonable offence, even by the Empress of Russia, if any man were to take into his head to write a panegyric upon the Russian form of Government. Such a liberty, as that might there-fore properly be termed the *Russian liberty of the Press*. But, the *English liberty of the Press* is of a very different description; for, by the law of England, it is not prohibited to publish speculative works upon the Constitution, whether they contain praise or censure.”—Lord Stanhope’s defence of the Libel Bill.

You see therefore, as far as the general principle goes, I am supported by the opinion of Lord Stanhope, for otherwise the noble Lord has written a libel himself, by exciting other people to write *whatever they may think*, be it good or evil, of the constitution of the country. As to the other high authority, Lord Loughborough, I will read what applies to this subject—“ Every man” said Lord Loughborough, “ may publish at his discretion his opinions concerning forms and systems of Government.”

“ If they be wise and enlightening, the world will gain by them; if they be weak and absurd, they will be laughed at and forgotten; and, if they be *bona fide*, they cannot be criminal, however erroneous. On the other hand, the purpose and the direction may give a different turn to writings whose common construction is harmless or even meritorious. Suppose men, assembled in disturbance of the peace, to pull down mills or turnpikes, or to do any other mischief, and that a mischievous person should disperse among them an excitation to the planned mischief known to both writer and reader, *To your tents, O Israel*; that publication would be criminal. But how criminal? not as a libel, not as an abstract writing, but as an act; and the act being the crime *it must be stated as a fact extrinsic on the record*: for, otherwise, a Court of Error could have no jurisdiction but over the natural construction of the writing; nor would the defendant have any notice of such matter at the trial, without a charge on the Record. To give the Jury cognizance of any matter beyond the construction of the writing, the averment should be in the case as I have instanced, that certain persons were, as I have described, assembled; and that the publisher, intending to excite these persons so assembled, wrote *so and so*. Here the crime is complete, and

‘ and consists in an overt-act of wickedness evidenced by a writing.’

In answer to all these authorities, the Attorney General may say, that, if Mr. Paine had written his observations with the views of those high persons and under other circumstances, he would be protected and acquitted: to which I can only answer, that no facts or circumstances attending his work are either charged or proved; that you have no jurisdiction whatever but over the natural construction of the work before you, and that I am therefore brought without a flaw in the deduction to the passages which are the particular subject of complaint.

Gentlemen, I am not unmindful how long I have already trespassed upon your patience; and, recollecting the nature of the human mind, and how much, for a thousand reasons, I have to struggle against at this moment, I should not be disconcerted if any of you should appear anxious to retire from the pain of hearing me farther. It has been said, that my vanity has forwarded my zeal in this cause; but I might appeal even to the authors of those paragraphs, whether a situation ever existed which vanity would have been fonder to fly from—the task of speaking against every known prepossession; with every countenance, as it were, planted and lifted up against me. But I stand at this bar to give to a criminal arraigned before it, the defence which the law of the country entitles him to. If any of my arguments be indecent, or unfit for the Court to hear, the noble Judge presides to interrupt them: If all, or any of them are capable of an answer, they will be answered: Or, if they be so unfounded in your own minds, who are to judge of them as not to call for refutation, your verdict in a moment will overthrow all that has been said—We shall then have all discharged our duties—it is your’s to judge, but mine only to address your judgments.

When my Lord and I were Counsel for Lord George Gordon in 1781, it was not considered by that Jury, nor imputed to us by any body, that we were contending for the privileges of over-awing the House of Commons, or recommending the conflagration of this city: I am doing the same duty now, which my Lord and I then did in concert together; and, whatever may become of the cause, I expect to be heard: conscious that no just obloquy can be, or will (*in the end*) be cast upon me for having done my duty in the manner I have endeavoured to perform it.

Gentlemen,

Gentlemen, I come now to observe on the passages selected by the information; and with regard to the first I shall dispose of it in a moment.

‘All *Hereditary* government is in its nature tyranny. An hereditary crown, or an hereditary throne, or by what other fanciful name such things may be called, have no other significant explanation than that mankind are hereditary *property*. To *inherit* a government is to *inherit* the *people*, as if they were flocks and herds.’

And is it to be endured, says the Attorney General, that the people of this country are to be told that they are driven like oxen or sheep? Certainly not. I am of opinion that a more dangerous doctrine cannot be instilled into the people of England. But who instils such a doctrine? I deny it is instilled by Paine. For when he maintains that hereditary monarchy inherits a people like flocks and herds, it is clear from the context (*which is kept out of view*,) that he is combating the proposition in Mr. Burke’s book, which asserts, that the hereditary monarchy of England is fastened upon the people of England by indissoluble compact. Mr. Paine, on the contrary, asserts the King of England to be the *magistrate of the people*, existing by their consent, which is utterly incompatible with their being driven like herds. His argument, therefore, is this, and it retorts on his adversary: he says, such a King as you represent the King of England to be, inheriting the people by virtue of conquest, or of some compact, which, having once existed, cannot be dissolved while the original terms of it are kept, *is an inheritance like flocks and herds*. But I deny that to be the King of England’s title, he is *the magistrate of the people*, and that title I respect. It is to your own imaginary King of England therefore, and not to his Majesty, that your unfounded innuendos apply. It is the Monarchs of Russia and Prussia, and all Governments fastened upon unwilling subjects by hereditary indefeasible titles, that are stigmatised by Paine as inheriting the people like flocks. The sentence, therefore, must either be taken in the pure abstract, and then it is not only merely speculative, but the application of it to our own Government fails altogether, or it must be taken connected with the matter which constitutes the application, and then it is Mr. Burke’s King of England, and not his Majesty whose title is denied.

I pass therefore to the next passage, which appears to be an extraordinary selection. It is taken at a leap from page

21 to page 47, and breaks in at the words, "This convention." The sentence selected stands thus, "This convention met at Philadelphia in May 1787, of which General Washington was elected president. He was not at that time connected with any of the state governments, or with congress. He delivered up his commission when the war ended, and since then had lived a private citizen."

"The Convention went deeply into all the subjects; and having after a variety of debate and investigation, agreed among themselves upon the several parts of a federal Constitution, the next question was, the manner of giving it authority and practice."

"For this purpose, they did not, like a cabal of courtiers, send for a Dutch Stadtholder, or a German Elector; but they referred the whole matter to the sense and interest of the country."

This sentence, standing thus by itself, may appear to be a mere sarcasm on King William, upon those who effected the Revolution; and upon the Revolution itself, without any reasoning or deduction: But when the context and sequel are looked at and compared, it will appear to be a serious Historical comparison between the Revolution effected in England in 1688, and the late one in America when she established her independence; and no man can doubt that his judgment on that comparison was sincere. But where is the Libel on the Constitution? for whether King William was brought over here by the sincerest and justest motives of the whole people of England, each man acting for himself, or through the motives and agencies imputed by the defendant, it signifies not one farthing at this time of day to the establishment itself. Blackstone warns us not to fix our obedience or affection to the Government on the motives of our ancestors, or the rectitude of their reasonings, but to be satisfied that it is established. This is safe reasoning, and, for my own part, I should not be differently affected to the Constitution of my country, which my own understanding approved, whether angels or demons had given it birth.

Do any of you love the reformation the less because Henry the eighth was the author of it? Or because lust and poverty, and not religion, were his motives. He had squandered the treasures of his father, and he preferred Anne Bullen to his Queen; these were the causes which produced it.—What then! does that affect the purity of our reformed religion, undermine its establishment, or shake the King's

title

title as Prince of the country, to the exclusion of those who held by the religion it had abolished? Will the Attorney General affirm, that I could be convicted of a libel for a whole volume of asperity against Henry the Eighth, merely because he effected the reformation; and if not, why against King William, who effected the Revolution? Where is the line to be drawn? Is one, two, or three centuries to be the statute of limitation? But do not our own historians detail this very cabal of courtiers, from the records of our own country? If you will turn to Hume's history, volume the eighth, page 188, &c. &c. you will find that he states at great length, the whole detail of intrigues which paved the way for the Revolution, and the interested coalition of parties which gave it effect.

But what of all this, concerning the motives of parties, which is recorded by Hume? The question is, *What is the thing brought about*,—Not *how it was brought about*. If it stands as Blackstone argues it, upon the consent of our ancestors, followed up by our own, no individual can withdraw his obedience. If he dislikes the establishment, let him seek elsewhere for another; I am not contending for uncontrouled *conduct*, but for *freedom of opinion*.

With regard to what has been stated of the *Edwards* and *Henries*, and the other princes under which the author can only discover "*restrictions on power, but nothing of a constitution*:" surely my friend is not in earnest when he selects that as a libel.

Paine insists, that there was no constitution under these princes, and that English liberty was obtained from usurped power by the struggles of the people. SO SAY I. And I think it for the honor and advantage of the country that it should be known.

Was there any freedom after the original establishment of the Normans by conquest? Was not the MAGNA CHARTA wrested from John by open force of arms at Runnymede? Was it not then re-enacted whilst menacing arms were in the hands of the people? Were not its stipulations broken through, and two and forty times re-enacted by Parliament, upon the firm demand of the people in the following reigns? I protest it fills me with astonishment to hear these truths brought in question.

I was formerly called upon under the discipline of a College to maintain them, and was rewarded for being thought to have successfully maintained that our present Constitution

on was by no means a remnant of Saxon liberty, nor any institution of liberty, but the pure consequence of the oppression of the Norman tenures, which spreading the spirit of freedom from one end of the kingdom to another, enabled our brave fathers, inch by inch, not to reconquer, *but for the first time to obtain* those privileges which are the unalienable inheritance of all mankind.

But why do we speak of the Edwards and Henries, when Hume himself expressly says, notwithstanding all we have heard to-day of the antiquity of our constitution, that our monarchy was nearly absolute till the middle of last century? I have his book in Court, and will read it to you. It is his *Essay on the Liberty of the Press*, vol. I. page 15.

‘All absolute Governments, and such in a great measure was England, till the middle of the last century, *notwithstanding the numerous panegyrics on ANCIENT English Liberty*, must very much depend on the administration.’

This is Hume’s opinion; the conclusion of a grave historian from all that he finds recorded as the materials for history: and shall it be said that Mr. Paine is to be punished for writing to-day what was before written by another, who is now a distinguished classic in the language? All the verdicts in the world will not make that palatable to an impartial public, or to posterity.

The next passage arraigned is this: p. 56. ‘The attention of the government of England; (for I rather chuse to call it by this name, than the English government) appears, since its political connection with Germany, to have been so compleatly engrossed and absorbed by foreign affairs, and the means of raising taxes, that it seems to exist for no other purposes. Domestic concerns are neglected; and with respect to regular law, there is scarcely such a thing.’

That the government of this country is, in consequence of its connection with the Continent, and the continental wars which it has occasioned, been continually loaded with grievous taxes, no man can dispute; and I appeal to your justice, whether this subject has not been, for years together, the constant topic of unproved declamation and grumbling?

As to what he says with regard to there hardly being such a thing as regular law, he speaks in the abstract of the complexity of our system; but does not arraign the administration of justice *in its practice*. But with regard to criticisms

ticisms and strictures on the general system, it has been echoed over and over again by various authors; and even from the pulpits of our country, that the law of the land is mainly defective, devoid of regularity and precision, and overloaded with a variety of expensive and unnecessary forms. I have a Sermon in court written during the American war, by a person of great eloquence and piety, part of which I will read to you on this subject, in which he looks forward to an exemption from the intolerable grievances of our old legal system in the infant establishment of the New World.

“ It may be in the purposes of providence, on yon
 “ western shores, to raise the bulwark of a purer reformation than ever Britain patronized; to found a less burthen-
 “ some, more auspicious, stable, and incorruptible
 “ government than ever Britain has enjoyed; and to establish there a system of law more just and simple in its
 “ principles, less intricate, dubious and dilatory in its proceedings, more mild and equitable in its sanctions, more
 “ easy and more certain in its execution; wherein no
 “ man can err through ignorance of what concerns him,
 “ or want justice through poverty or weakness, or escape
 “ it by legal artifice, or civil privileges, or interposing
 “ power; wherein the rule of conduct shall not be hidden
 “ or disguised in the language of principles and customs
 “ that died with the barbarism which gave them birth;
 “ wherein hasty formulas shall not dissipate the reverence
 “ that is due to the tribunals and transactions of justice;
 “ wherein obsolete precepts shall not pervert, nor entangle, nor impede the administration of it, nor in any instance expose it to derision or to disregard; wherein
 “ misrepresentation shall have no share in deciding upon
 “ right and truth; and under which no man shall grow
 “ great by the wages of chicanery, or thrive by the quarrels
 “ that are ruinous to his employers.”

This is ten times stronger than Mr. Paine; but who ever thought of prosecuting Mr. Cappe?

In various other instances you will find defects in our jurisprudence pointed out and lamented, and not seldom by persons called upon by their situations to deliver the law in the
 feat

feat of magistracy : therefore, the author's *general* observation does not appear to be that species of attack upon the magistracy of the country, as to fall within the description of a libel.

With respect to the two Houses of Parliament, I believe I shall be able to shew you that the very person who introduced this controversy, and who certainly is considered by those who now administer the government, as a man usefully devoted to maintain the constitution of the country in the present crisis, has himself made remarks upon these Assemblies ; that upon comparison you will think more severe than those which are the subject of the Attorney General's animadversion. The passage in Mr. Paine runs thus :

‘ With respect to *the two houses*, of which the English Parliament is composed, they appear to be effectually influenced into one, and, as a legislature, to have no temper of its own. The minister, whoever he at any time may be, touches it as with an opium wand, and it sleeps obedience.’

‘ But if we look at the distinct abilities of the two houses, the difference will appear to great, as to shew the inconsistency of placing power where there can be no certainty of the judgment to use it. Wretched as the state of representation is in England, it is manhood compared with what is called the house of Lords ; and so little is this nick-named house regarded, that the people scarcely inquire at any time what it is doing. It appears also to be most under influence, and the furthest removed from the general interest of the nation.’

The conclusion of the sentence, and which was meant by Paine as evidence of the previous assertion, the Attorney General has omitted in the information, and in his speech, it is this : ‘ In the debate on engaging in the Russian and Turkish war, the majority in the House of Peers in favour of it was upwards of ninety, when in the other house, which is more than double its numbers, the majority was sixty-three.’

The

The terms, however, in which Mr. Burke speaks of the House of Lords, are still more expressive. "It is something more than a century ago, since we voted the House of Lords useless. They have now voted themselves so, and the whole hope of reformation" (*speaking of the House of Commons*) "is cast upon us." This sentiment, Mr. Burke not only expressed in his place in parliament, where no man can call him to an account; but it has been since repeatedly printed amongst his other valuable works. And his opinion of BOTH THE HOUSES OF PARLIAMENT, which I am about to read to you, was originally published as a pamphlet, and applied to the settled habitual abuses of these high assemblies. Remember, I do not use them as *argumenta ad hominem*, or *ad invidiam* against the author, for if I did, it could be no defence of Mr. Paine. But I use them as high authority, the work* having been the just foundation of substantial and lasting reputation. Would to God that any part of it were capable of being denied or doubted.

' Against the being of parliament I am satisfied no designs have ever been entertained since the Revolution. Every one must perceive that it is strongly the interest of the Court to have some second cause interposed between the ministers and the people. The gentlemen of the House of Commons have an interest equally strong, in sustaining the part of that intermediate cause. However they may hire out the *usufruct* of their voices, they never will part with the *fee and inheritance*. Accordingly those who have been of the most known devotion to the will and pleasure of a court, have at the same time been most forward in asserting an high authority in the House of Commons. *When they knew who were to use that authority, and how it was to be employed, they thought it never could be carried too far.* It must be always the wish of an unconstitutional statesman, that an House of Commons, *who are entirely dependent upon him, should have every right of the people dependent upon their pleasure.* FOR IT WAS DISCOVERED THAT THE FORMS OF A FREE, AND THE ENDS OF AN ARBITRARY GOVERN-

*Mr. Burke's Thoughts on the cause of the present discontents, published in 1775.

MENT, WERE THINGS NOT ALTOGETHER INCOMPATIBLE.

‘The power of the crown, almost dead and rotten as Prerogative, has grown up anew, with much more strength and far less odium, under the name of influence. An influence which operates without noise and violence; which converts the very antagonist into the instrument of power; which contains in itself a perpetual principle of growth and renovation; and which the distresses and the prosperity of the country equally tend to augment, was an admirable substitute for a Prerogative, that being only the offspring of antiquated prejudices, had moulded in its original stamina irresistible principles of decay and dissolution. The ignorance of the people is a bottom but for a temporary system; but the interest of active men in the state is a foundation perpetual and infallible.’

Mr. Burke therefore, in page 66, speaking of the same court party, says :

‘Parliament was indeed the great object of all these politics, the end at which they aimed, as well as the INSTRUMENT by which they were to operate.’

And pursuing the subject in page 70, proceeds as follows :

‘They who will not conform their conduct to the public good, and cannot support it by the prerogative of the crown, have adopted a new plan. They have totally abandoned the shattered and old-fashioned fortress of prerogative, and made a lodgement in the strong hold of parliament itself. If they have any evil design to which there is no ordinary legal power commensurate, they bring it into parliament. *There the whole is executed from the beginning to the end. And the power of obtaining their object absolute; and the safety in the proceeding perfect; no rules to confine, nor after reckonings to terrify.* For parliament cannot with any great propriety punish others for things in which they themselves have been ACCOMPLICES. Thus its controul upon the executory power is lost; because it is made to partake in every considerable act of government, and impeachment, that great guardian of the purity of the Constitution, is in danger of being lost even to the idea of it.

‘Until

‘ Until this time, the opinion of the people, through the power of an Assembly, still in some sort popular, led to the greatest honours and emoluments in the gift of the crown. Now the principle is reversed; and the favour of the court is the only sure way of obtaining and holding those honours which ought to be IN THE DISPOSAL OF THE PEOPLE.’

Mr. Burke, in page 100, observes with great truth, that the mischiefs he complained of, did not at all arise from the Monarchy, but from the parliament, and that it was the duty of the people to look to it. He says, ‘ The distempers of monarchy were the great subjects of apprehension and redress, in the *last century*’ *in this*, the distempers of parliament.’

Not the distempers of parliament in this year or the last, but in *this century*, i. e. its settled habitual distemper. ‘ It is not in parliament alone that the remedy for parliamentary disorders can be completed; and hardly indeed can it begin there. Until a confidence in government is re-established, the people ought to be *excited* to a more strict and detailed attention to the conduct of their representatives. Standards for judging more systematically upon their conduct ought to be settled in the meetings of counties and corporations, and frequent and correct lists of the voters in all important questions ought to be procured.

‘ By such means something may be done, since it may appear who those are, that by an indiscriminate support of all administrations, have totally banished all integrity and confidence out of the public proceedings; have confounded the best men with the worst; and weakened and dissolved, instead of strengthening and compacting the general frame of government.’

I wish it was possible to read the whole of this most important volume—but the consequences of these truths contained in it were all eloquently summed up by the author in his speech upon the reform of the household.

‘ But what I confess was uppermost with me, what I bent the whole course of my mind to, was the reduction of that
‘ corrupt

‘ corrupt influence which is itself the perennial spring of all
 ‘ prodigality and disorder; which loads us more than milli-
 ‘ ons of debt; which takes away vigour from our arms, wis-
 ‘ dom from our councils, and every shadow of authority and
 ‘ credit from the most venerable parts of our constitution.’

The same important truths were held out to the whole public, upon a still later occasion, by the person now at the head of his Majesty’s councils; and so high (as it appears) in the confidence of the nation. *He*, not in the abstract like the author before you, but upon the spur of the occasion, and in the teeth of what had been just declared in the House of Commons, came to, and acted upon resolutions which are contained in this book.* Resolutions pointed to the purification of a parliament, dangerously corrupted into the very state described by Mr. Paine. Remember here too, that I impute no censure to Mr. Pitt. It was the most brilliant passage in his life, and I should have thought his life a better one, if he had continued uniform in the support of opinions, which it is said he has not changed, and which certainly have had nothing to change them. But at all events, I have a right to make use of the authority of his splendid talents and situation, not merely to protect the defendant, but the public, and to resist the precedent; That what one man may do in England with approbation and glory, shall conduct another man to a pillory or a prison.

It was the abuses pointed out by the man before you, that led that Right Hon. Gentleman to associate with many others of high rank, under the banners of the Duke of Richmond, whose name stands at the head of the list, and to pass various resolutions, concerning the absolute necessity of purifying the House of Commons; and we collect the plan from a preamble entered in the book. ‘Whereas the life, liberty and property of every man is or may be affected by the law of the land in which he lives, and every man is bound to pay obedience to the same.

‘ And whereas, by the constitution of this kingdom the
 ‘ right of making laws is vested in three estates, of King,
 ‘ Lords, and Commons, in parliament assembled, and the
 ‘ consent of all the three said estates, comprehending the
 ‘ whole community, is necessary to make laws to bind the
 ‘ whole community. And whereas the House of Commons
 ‘ represents all the Commons of the realm, and the consent

* Mr. Erskine took up a book.

‘ of the House of Commons binds the consent of all the
 ‘ Commons of the realm, and in all cases on which the
 ‘ legislature is competent to decide.

‘ And whereas no man is, or can be actually represented
 ‘ who hath not a vote in the election of his representa-
 ‘ tive.

‘ And whereas it is the right of every Commoner of this
 ‘ realm (infants, persons of insane mind, and criminals in-
 ‘ capacitated by law, only excepted) to have a vote in the
 ‘ election of the representative who is to give his consent to
 ‘ the making of laws by which he is to be bound.

‘ And whereas the number of persons who are suffered
 ‘ to vote for electing the members of the House of Com-
 ‘ mons, do not at this time amount to one-sixth part of the
 ‘ whole Commons of this realm, whereby far the greater
 ‘ part of the said Commons are deprived of their right to
 ‘ elect their representatives; and the consent of the majority
 ‘ of the whole community to the passing of laws, is given
 ‘ by persons whom they have not delegated for such pur-
 ‘ poses; and to which the said majority have not in fact con-
 ‘ sented by themselves or by their representatives.

‘ And whereas the state of election of members of the
 ‘ House of Commons, hath in process of time so grossly
 ‘ deviated from its simple and natural principle of represen-
 ‘ tation and equality, that in several places, the members
 ‘ are returned by the property of one man; that the smallest
 ‘ boroughs send as many members as the largest counties,
 ‘ and that a majority of the representatives of the whole
 ‘ nation are chosen by a number of votes not exceeding
 ‘ twelve thousand.’

These with many others, were published, not as abstract
 speculative writings, but within a few days after the House of
 Commons had declared that no such rights existed, and
 that no alteration was necessary in the representation. It
 was then that they met at the Thatched House, and pub-
 lished their opinions and resolutions to the country at large.
 —Were any of them prosecuted for these proceedings?
 Certainly not, (for they were legal proceedings.) But I
 desire you as men of honour and truth, to compare all this
 with Mr. Paine’s expression of the Minister’s touching Par-
 liament with his opiate wand, and let equal justice be done
 —that is all I ask—let all be punished or none—do not let
 Mr. Paine be held out to the contempt of the public upon
 the score of his observations on parliament, while others are
 enjoying

enjoying all the sweets which attend a supposed attachment to their country, who have said the same things, and reduced their opinions to practice.

But now every man is to be cried down for such opinions. I observed that my learned friend significantly raised his voice in naming Mr. Horne Tooke, as if to connect him with Paine, or Paine with him. This is exactly the same course of justice; for after all he said nothing of Mr. Tooke. What could he have said, but that he was a subscriber with the great names, I have read in these proceedings which they have thought fit to desert?

Gentlemen, let others hold their opinions, and change them at their pleasure; I shall ever maintain it to be the dearest privilege of the people of Great Britain to watch over every thing that affects their good government, either in the system, or in the practice; and that for this purpose the press must be free. It has always been so, and much evil has been corrected by it.—If government finds itself annoyed by it, let it examine its own conduct, and it will find the cause,—let it amend it, and it will find the remedy.

Gentlemen, I am no friend to sarcasms in the discussion of grave subjects, but you must take writers according to the view of the mind at the moment; Mr. Burke as often as any body indulges in it:—hear his reason in his speech on reform, for not taking away the salaries from Lords who attend upon the British Court. “You would,” said he, “have the court deserted by all the nobility of the kingdom.

“Sir, the most serious mischiefs would follow such a desertion. Kings are naturally lovers of low company; “they are so elevated above all the rest of mankind, that they “must look upon all their subjects as on a level: they are “rather apt to hate than to love their nobility, on account “of the occasional resistance to their will, which will be “made by their virtue, their petulance, or their pride. It “must indeed be admitted, that many of the nobility are “as perfectly willing to act the part of flatterers, tale- “bearers, parasites, pimps, and buffoons, as any of the “lowest and vilest of mankind can possibly be. But they “are not properly qualified for this object of their ambi- “tion. The want of a regular education, and early habits, “with some lurking remains of their dignity, will never “permit them to become a match for an Italian eunuch, a “mountebank, a fidler, a player, or any regular practitioner

“ of that tribe. The Roman Emperors, almost from the
 “ beginning, threw themselves into such hands; and the
 “ mischief increased every day, till its decline, and its
 “ final ruin. It is, therefore, of very great importance
 “ (provided the thing is not overdone,) to contrive such an
 “ establishment as must, almost whether a prince will or not,
 “ bring into daily and hourly offices about his person, a great
 “ number of his first nobility; and it is rather an useful
 “ prejudice that gives them a pride in such a servitude:
 “ though they are not much the better for a court, a court
 “ will be much the better for them. I have, therefore, not
 “ attempted to reform any of the offices of honour about the
 “ King’s person.”

What is this but saying that a King is an animal so incurably addicted to low company, as generally to bring on by it the ruin of nations; but nevertheless, he is to be kept as a necessary evil, and his propensities bridled by surrounding him with a parcel of miscreants still worse if possible, but better than those he would choose for himself?—This therefore, if taken by itself, would be a most abominable and libellous sarcasm on Kings and Nobility: but look at the whole speech, and you observe a great system of regulation; and no man, I believe, ever doubted Mr. Burke’s attachment to monarchy. To judge, therefore, of any part of a writing, the whole must be read.

With the same view I mean to read to you the beginning of Harrington’s *Oceana*: but it is impossible to name this well known author without exposing to just contempt and ridicule the ignorant or profligate misrepresentations which are vomited forth upon the public, to bear down every man as desperately wicked, who in any age or country has countenanced a Republic, for the mean purpose of prejudging this trial.

[Mr. Erskine took up a book, but laid it down again without reading from it, saying something to the gentleman who sat near him, in a low voice, which I did not hear.]

Is this the way to support the English constitution? Are these the means by which Englishmen are to be taught to cherish it? I say, if the man upon trial were stained with blood instead of ink,—if he were covered over with crimes which human nature would start at the naming of, the means employed against him would not be the less disgraceful.

For

For this notable purpose then, Harrington, not above a week ago, was handed out to us as a low, obscure wretch, involved in the murder of the Monarch, and the destruction of Monarchy, and as addressing his despicable works at the shrine of an Usurper. Yet this very Harrington, this low blackguard, was descended (you may see his pedigree at the Herald's Office for sixpence,) from eight Dukes, three Marquisses, seventy Earls, twenty-seven Viscounts, and thirty-six Barons, sixteen of whom were Knights of the Garter; a descent which I think would save a man from disgrace in any of the circles of Germany. But what was he besides—A BLOOD-STAINED RUFFIAN? Oh brutal ignorance of the history of the Country! He was the most affectionate servant of Charles the First, from whom he never concealed his opinions; for it is observed by Wood, that the King greatly affected his company; but when they happened to talk of a Common-wealth, he would scarcely endure it.—‘I know not,’ says Toland, ‘which most to commend; the King for trusting an honest man, though a Republican; or Harrington for owning his principles while he served a King.’

But did his opinions affect his conduct?—Let History again answer.—He preserved his fidelity to his unhappy Prince to the very last, after all his fawning courtiers had left him to his enraged subjects. He staid with him while a prisoner in the Isle of Wight; came up by stealth to follow the fortunes of his monarch and master; even hid himself in the boot of the coach when he was conveyed to Windsor; and ending as he began, fell into his arms and fainted on the scaffold.

After Charles's death, the *Oceana* was written, and, as if it were written from justice and affection to his memory: for it breathes the same noble and spirited regard, and asserts that it was not Charles that brought on the destruction of the monarchy, but the feeble and ill constituted nature of monarchy itself.

But the book was a flattery to Cromwell.—Once more and finally let history decide.

It was seized by the Usurper as a libel, and the way it was recovered is remarkable. I mention it to shew that Cromwell was a wise man in himself, and knew on what governments must stand for their support.

Harrington

Harrington waited on his daughter to beg for his book, on entering her apartment, snatched up her child and ran away.—On her following him with surprize and terror, he turned to her and said, “ I know what you feel as a mother, “ feel then for me ; your father has got my child : ” meaning the Oceana. The Oceana was afterwards restored on her petition ; Cromwell answering with the sagacity of a sound politician, “ Let him have his book : if my government is “ made to stand, it has nothing to fear from PAPER SHOT.” —He said true.—No good government will ever be battered by paper shot. Montesquieu says that, “ In a free nation, “ it matters not whether individuals reason well or ill ; it is “ sufficient that they do reason. Truth arises from the collision, and from hence springs liberty, which is a security “ from the effect of reasoning.” The Attorney General read extracts from Mr. Adams’s answer to this book. Let others do like Mr. Adams : I am not insisting upon the infallibility of Mr. Paine’s doctrines ; if they are erroneous, let them be answered, and truth will spring from the collision.

A disposition in a nation to this species of controversy, is no proof of sedition or degeneracy, but quite the reverse, as is mentioned by Milton, [I omitted to cite the passage with the others] who in speaking of this subject, rises into that inexpressibly sublime stile of writing, wholly peculiar to himself. He was indeed no plagiarist from any thing human : he looked up for light and expression, as he himself wonderfully describes it, by devout prayer to that great Being, who is the source of all utterance and knowledge ; and who sendeth out his seraphim with the hallowed fire of his altars to touch and purify the lips of whom he pleases. ‘ When ‘ the chearfulness of the people,’ says this mighty poet, ‘ is ‘ so sprightly up, as that it has not only wherewith to guard ‘ well its own freedom and safety, but to spare, and to bestow upon the solidest and sublimest points of controversy ‘ and new invention, it betokens us not degenerated nor ‘ drooping to a fatal decay, but casting off the old and ‘ wrinkled skin of corruption to outlive these pangs, and ‘ wax young again, entering the glorious ways of truth and ‘ prosperous virtue, destined to become great and honourable ‘ in these latter ages. Methinks I see, in my mind, a noble ‘ and puissant nation rousing herself, like a strong man after ‘ sleep, and shaking her invincible locks : methinks I see ‘ her

* her as an eagle muing her mighty youth, and kindling her
 * undazzled eyes at the full mid-day beam; purging and
 * unscaling her long abused sight at the fountain itself of
 * heavenly radiance; while the whole noise of timorous
 * and flocking birds, with those also that love the twilight,
 * flutter about amazed at what she means, and in their
 * envious gabble would prognosticate a year of sects and
 * schisms.

Gentlemen, what Milton only saw in his mighty imagination, I see in fact; what he expected, but which never came to pass, I see now fulfilling: methinks I see this noble and puissant nation, not degenerated and drooping to fatal decay, but casting off the wrinkled skin of corruption to put on again the vigour of her youth.

And it is, because others as well as myself see this, that we have all this uproar:—France and its constitution are the mere pretences. It is, because Britons begin to recollect the inheritance of their own constitution, left them by their ancestors: It is, because they are awakened to the corruptions which have fallen upon its most valuable parts, that forthwith the nation is in danger of being destroyed by a single pamphlet.

Gentlemen, I have marked the course of this alarm: It began with the renovation of those exertions for the public, which the authors of the alarm had themselves originated and deserted: and they became louder and louder when they saw these principles avowed and supported by my admirable and excellent friend Mr. Fox: the most eminently honest and enlightened statesman, that history brings us acquainted with: a man whom to name is to honour; but whom in attempting adequately to describe, I must fly to Mr. Burke, my constant refuge when eloquence is necessary: a man, who to relieve the sufferings of the most distant nation, “put to the hazard his ease, his security, his interest, his power, even his darling popularity for the benefit of a people whom he had never seen.” How much more then for the inhabitants of his native country! yet this is the man who has been censured and disavowed in the manner we have lately seen.

Gentlemen, I have but a few more words to trouble you with: I take my leave of you with declaring, that this freedom which I have been endeavouring to assert, is no

more than the freedom which belongs to our own inbred constitution : I have not asked you to acquit Mr. Paine upon any new lights, or upon any principle but the law, which you are sworn to administer : My great object has been to inculcate, that wisdom and policy, which are the parents of Great Britain, forbid this jealous eye over her subjects ; and that, on the contrary, they cry aloud in the language of the poet, employed by Lord Chatham on the memorable subject of America, unfortunately without effect :

“ Be to their faults a little blind,
 “ Be to their virtues very kind ;
 “ Let all their thoughts be unconfin’d,
 “ And clap your padlock on the mind.”

Engage them by their affections, convince their reason, and they will be loyal from the only principle that can make loyalty sincere, vigorous, or rational, a conviction that it is their truest interest, and that their form of government is for their common good. Constraint is the natural parent of resistance, and a pregnant proof, that reason is not on the side of those who use it. You must all remember, gentlemen, Lucian’s pleasant story ; Jupiter and a countryman were walking together, conversing with great familiarity upon the subject of heaven and earth. The countryman listened with attention and acquiescence, while Jupiter strove only to convince him ; but happening to hint a doubt, Jupiter turned hastily round and threatened him with his thunder.—“ Ah ! ha !” says the countryman, “ now, “ Jupiter, I know that you are wrong ; you’re always wrong “ when you appeal to your thunder.”

This is the case with me—I can reason with the people of England, but I cannot fight against the thunder of authority.

Gentlemen, this is my defence for free opinions. With regard to myself, I am, and ever have been, obedient and affectionate to *the law* : to that rule of action, as long as I exist, I shall ever give my voice and my conduct ; but I shall ever do as I have done to-day, maintain the dignity of my high profession, and perform, as I understand them, all its important duties.

[Mr.

[Mr. Attorney General arose immediately to reply to Mr. Erskine, when Mr. Campbell (the foreman of the Jury) said,—My Lord, I am authorized by the Jury here, to inform the Attorney General, that a reply is not necessary for them, unless the Attorney General wishes to make it, or your Lordship—Mr. Attorney General sat down, and the Jury gave in their verdict,

GUILTY.

